Date of Hearing: April 9, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
AB 1131 (Ta) – As Introduced February 20, 2025

SUBJECT: General plan: annual report: congregate care for the elderly

SUMMARY: Allows a local government to include on its Annual Progress Report (APR) the number of units approved for congregate housing for the elderly at or below 100% of area median income (AMI). Specifically, **this bill**:

1) Allows a local government to include in its APR the number of units approved for congregate housing for the elderly, as defined, at or below 100% of AMI, as defined.

2) Defines "congregate housing for the elderly" to mean a housing development which is planned, designed, and managed to include facilities and common space that allow for direct services and support services that maximize the residents' potential for independent living and which is occupied by elderly or handicapped persons or households, as specified. Direct services and support services which are provided or made available must relate to the nutritional, social, recreational, housekeeping, and personal needs of the residents and must be provided or made available at a level necessary to assist the residents to function independently.

EXISTING LAW:

1) Requires a planning agency to provide an APR to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development (HCD) by April 1 of each year that includes all of the following:

    a) The status of the general plan and progress in its implementation;

    b) The progress in meeting its share of the regional housing needs allocation (RHNA), including the need for extremely low-income households, and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing included in the housing element;

    c) The number of housing development applications received in the prior year, including whether each housing development application is subject to a ministerial or discretionary approval process;

    d) The number of units included in all development applications in the prior year;

    e) The number of units approved and disapproved in the prior year, disaggregated into income subcategories within opportunity areas, as specified;

    f) The degree to which the approved general plan complies with the guidelines developed in existing law for addressing specified matters, including environmental justice matters, collaborative land use planning of adjacent civilian and military lands, consultation with Native American tribes, and road and highway safety;

g) A listing of sites rezoned to accommodate that portion of the city or county's share of the RHNA for each income level that could not be accommodated on sites identified in the housing element's site inventory and any sites that may have been required to be identified under the No Net Loss zoning law;

h) The number of housing units demolished and new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category by AMI that each housing unit satisfies;

i) Certain information regarding funding that may have been allocated via the Local Government Planning Support Grants Program;

j) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes and to identify and protect, preserve, and mitigate impacts to tribal places, features, and objects;

k) Specified information related to density bonus law applications, including the number of units in a student housing development for lower income students for which the developer was granted a student housing density bonus;

l) Specified information related to Affordable Housing and High Road Jobs Act of 2022 applications; and

m) A list of all historic designations listed on the National Register of Historic Places, the California Register of Historic Resources, or a local register of historic places by the city or county in the past year, and the status of any housing development projects proposed for the new historic designations. (Government Code (GOV) 65400(a)(2)(A)-(N))

2) Requires HCD to post APR reports on its website within a reasonable time of receiving the reports. (GOV 65400(c))

3) Provides that each community's fair share of housing be determined through the Regional Housing Needs Determination (RHND)/RHNA process. Sets out the process as follows: (a) Department of Finance (DOF) and HCD develop regional housing needs estimates or RHNDs; (b) Councils of Governments (COGs) allocate housing via RHNA 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. (GOV 65584 and 65584.01)

4) Establishes a streamlined, ministerial approval process for certain affordable and mixed-income housing developments pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017) if the developments are located in a jurisdiction where housing production is less than the jurisdiction's RHNA for households of certain incomes. (GOV 65913.4)

5) Defines "congregate housing for the elderly" to mean a housing development which is planned, designed, and managed to include facilities and common space that allow for direct services and support services that maximize the residents' potential for independent

living and which is occupied by elderly or handicapped persons or households, as specified. Direct services and support services which are provided or made available must relate to the nutritional, social, recreational, housekeeping, and personal needs of the residents and must be provided or made available at a level necessary to assist the residents to function independently. (Health and Safety Code (HSC) Section 50062.5)

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Cities and counties are unable to count assisted living facilities towards their RHNA numbers; however, AB 1131 would encourage cities and counties to produce more assisted living as defined by Section 50062.5 of the HSC, freeing up more homes to be available on the market for purchase by families. This is first and foremost a definition bill that authorizes the HCD to have a definition for assisted living for meeting RHNA goals for senior housing."

RHNA and Housing Elements: The 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 state is currently in the sixth housing element 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 currently assigned via six 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). Beginning with the seventh cycle, two new income categories will be incorporated for acutely low-income (0-15% of AMI) and extremely low-income (15-30% of AMI).

The cycle begins with HCD and 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 Regional Transportation Plan update. 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 are 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.

The following two sections contain information provided by the Assembly Committee on Aging and Long Term Care.

California's Aging Population and Homelessness: The University of California, San Francisco Benioff Homelessness and Housing Initiative (BHHI) recently released a special report on older adults' experiences of homelessness.[1] The analysis is based on survey data and in-depth interviews from the California Statewide Study of People Experiencing Homelessness (CASPEH), the largest representative study of homelessness in the United States since the mid-1990s. Margot Kushel, MD, BHHI Director and lead author of the report stated "The dramatic rise in homelessness among older adults has severe consequences for the health and safety of those who experience it, and for our society at large. Now is the time for investments in real solutions to prevent and end homelessness among this vulnerable population."

The report found the following:

- Nearly half (48%) of all single homeless adults in California are age 50 and older. This trend is expected to continue; the proportion of people experiencing homelessness age 65 and older in the United States is projected to triple between 2017 and 2030.

[1] https://homelessness.ucsf.edu/resources/reports/toward-dignity-understanding-older-adult-homelessness

- Adults experiencing homelessness in their 50s and 60s have similar health status to people 20 years older in the general population.
- Consistent with the state's overall homeless population, most (91%) older adults experiencing homelessness in California lost their housing in California.
- They experienced severe poverty prior to homelessness: the median monthly household income in the six months prior to homelessness was $920 a month. Nearly half (46%) entered homelessness from a housing situation without the protection of a lease.
- Forty-one percent of older homeless adults had their first episode of homelessness after age 50.
- Older adults experienced prolonged episodes of homelessness. Among older adults, the median length of the current episode was 25 months.

California is projected to be one of the fastest growing states in the nation in total population. In 2016, California comprised 12% of the nation's population[2] and is expected to grow 30% by the year 2060, an increase of 11.7 million people.[3] In California, the population aged 60 years and over is expected to grow more than three times as fast as the total population and this growth will vary by region.

The population over age 60 will have an overall increase of 166% during the period from 2010 to 2060. More than half the counties will have over a 100% increase in this age group. Nearly half of these counties will have growth rates of over 150%. These counties are located throughout the central and southern areas of the State. The influence of the 60 and over age group on California is expected to emerge most strongly between 2010 and 2030.

The population over age 85 will increase at an even a faster rate than those over 60 years of age, having an overall increase of 489% during the period from 2010 to 2060. Counties can expect to experience even higher growth rates after 2020. In particular, the influence of the 85 and over age group on California will emerge most strongly between the year 2030 to 2040, as the first of the baby boomers reach 85 years of age.[4]

Master Plan for Aging: In January of 2021, the Governor released his Master Plan for Aging (MPA).[5] The MPA prioritizes the health and well-being of older Californians and the need for policies that promote healthy aging. The MPA serves as a blueprint for state government, local government, the private sector, and philanthropy to prepare the state for the coming demographic changes and continue California's leadership in aging, disability, and equity.

The work plan laid out in the MPA four years after its release continues to highlight the urgent needs facing California's older adults, people with disabilities, their families, caregivers, advocates and the workforce supporting these populations.

In 2024-25, the MPA outlines five bold goals and currently seeks to advance 81 initiatives to build a California for All Ages by 2030. Each initiative features a designated area of focus; to deliver, to analyze and to communicate. It also includes a Data Dashboard on Aging to measure

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[2] https://factfinder.census.gov
[3] http://www.dof.ca.gov/Forecasting/Demographics/Projections
[4] https://aging.ca.gov/Data_and_Reports/Facts_About_California%27s_Elderly/
[5] https://mpa.aging.ca.gov/

progress. This bill, AB 1131 (Ta) is related to the needs of older adults and can be related to Goal One of the five bold goals:

- Goal One: Housing for All Ages and Stages
- Goal Two: Health Reimagined
- Goal Three: Inclusion and Equity, Not Isolation
- Goal Four: Caregiving That Works
- Goal Five: Affording Aging

Annual Progress Reports: Current law requires all local jurisdictions to provide housing information annually to HCD via the APR, including the following information from the current housing element cycle:

- The number of housing development applications received, and whether those applications are subject to ministerial or discretionary approval;
- The number of units included in all development applications;
- The number of units approved and disapproved;
- For each income category, the number of net (inclusive of demolished) new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy;
- A unique site identifier (such as APN) for each entitlement, building permit, or certificate of occupancy; and
- The overall progress in meeting its share of RHNA.

It is important to note that APR submission has become a lengthy and involved process for city and county planning staff to undertake each year, and changing components can also prompt HCD to need to reconfigure its existing APR data collection and visualization tools to account for different categories of information. Adding new components to APRs should be considered carefully in light of the additional workload that will be placed on local planning staff or consultants as well as HCD.

This bill would create a pathway for local governments to receive APR and RHNA credit for new housing developments providing congregate housing for the elderly, as defined. These are independent living or assisted living developments in which older adults and people with disabilities are able to live in settings that are designed to maximize the ability for residents to function independently but also receive direct services in group settings like communal meals, transportation services, and other support services like in-home assistance or lighter touch forms of nursing care. Because the current Census definition of a "housing unit" excludes group quarters, and there is inconsistency in categorizing certain types of housing developments that may blur the line between a housing unit and a group quarter or may have a mixture of both, the RHNA process and APRs do not currently capture all of these developments even though there is a pressing need for more housing options for seniors and people with disabilities. HCD explains the issue further beginning on page 33 of their 2024 report, *California's Housing Future 2040: The Next RHNA*:

> The RHNA process has traditionally been used to plan for the needs of individuals that in housing units rather than group quarters. Accordingly, when HCD determines the regional housing need, the Department subtracts the group quarters population from the total population so as to only count the population living in households. Similarly, HCD

> only gives credit to newly constructed housing units, rather than group quarters, on the APRs that track a jurisdiction's progress towards meeting its RHNA.

HCD continues on page 34:

> Stakeholders encouraged HCD to reconsider the process used to determine what populations are included in the RHND and what types of units are counted towards meeting the RHNA in order to improve consistency and to accurately account for need. For example, DOF staff noted that some housing developments are not straightforward to categorize (such as senior living communities that include both independent senior housing units and skilled nursing care), and that developing a consistent process for deciding what populations are counted in the RHND could help streamline the determination.

Arguments in Support: According to the California Commission on Aging, "One category of housing that HCD has not been counting is assisted living facilities simply because there is no specific definition. According to The California's Housing Future 2040: The Next RHNA, HCD recommends that the Department of Finance use a clear rule for categorizing developments that may include both group quarters and housing units. In that same report, HCD also had a policy consideration for the legislature to address the concerns raised by stakeholders, in which HCD suggested various topics that the legislature may wish to explore in order to improve clarity, efficiency, and effectiveness of the RHNA process. Addressing group housing units was one of the recommendations. CCoA urges your support for AB 1131. The growth in the older adult population will increase the demand for housing services that provide a level of care. Cities and counties are unable to count assisted living facilities towards their RHNA numbers. This bill would encourage cities and counties to produce more assisted living to match the growing number of older adults. With older Californians comprising the fastest growing population of unhoused adults in the state, we must recognize that solutions to homelessness will require addressing the specialized needs of an older population."

Arguments in Opposition: None on file.

Committee Amendments: Staff recommends the following amendments:

1) To ensure HCD and the Department of Finance are able to accurately incorporate the populations living in these facilities into the regional housing needs determination at the commencement of the planning cycle, specify that these units may be reported commencing with the seventh housing element cycle and not the current sixth cycle;

2) Remove the limitation on reporting these units in congregate care facilities only at 100% or less of AMI. It is likely that many of these units are offered at above-moderate income rates or at market rates and imposing an income cutoff does not seem necessary;

3) Limit the percentage of any RHNA income category that may be "credited" to congregate care facilities at 15%, to ensure that communities take a balanced approach and do not overly prioritize senior housing over general multifamily or affordable housing that may also be appropriate for similar sites in a community that allow higher density housing.

GOV 65400. (a) (2) (B) (v) ***For the seventh and each subsequent revision of the housing element,*** ~~The~~ ***the*** planning agency may include the number of units approved for congregate

housing for the elderly, as defined in Section 50062.5 of the Health and Safety Code***, for up to 15 percent of a jurisdiction's regional housing need allocation for any income category***~~, at or below 100 percent of the area median income, as defined in Section 50093 of the Health and Safety Code~~.

Related Legislation:

AB 670 (Quirk-Silva) of the current legislative session would make changes to the information that local governments must report in their APR regarding demolished and replacement units, and allow local governments to report the number of units in an existing multifamily building that were converted to affordable housing, for up to 25% of a jurisdiction's RHNA for lower income units. This bill recently passed out of this committee on a vote of 10-0 and is pending a hearing in Assembly Local Government Committee.

AB 726 (Ávila Farías) of the current legislative session would allow a local government to include in its APR the number of units of existing deed-restricted affordable housing that have been substantially rehabilitated with at least $60,000 per unit in funds from the local government, as specified. This bill recently passed out of this committee on a vote of 10-0 and is pending a hearing in Assembly Local Government Committee.

SB 721 (Becker) of 2024 would have added to the list of information local governments must provide in their APR the number of new and demolished suite-style student housing quarters by income category thus far in the housing element cycle, as determined by HCD. That bill was held in the Assembly Appropriations Committee.

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

California Commission on Aging
City of Fountain Valley
League of California Cities

Opposition

None on file.

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