Date of Hearing: July 2, 2025

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Matt Haney, Chair
SB 507 (Limón) – As Amended May 1, 2025

SENATE VOTE: 38-0

SUBJECT: Planning and zoning: regional housing needs allocation

SUMMARY: Authorizes a local government in the same county as a tribe to enter into a voluntary agreement with a tribe to allow new tribal housing development projects, as defined, to count toward the locality's share of the regional housing needs allocation (RHNA) if certain conditions are met. Specifically, **this bill**:

1) Allows a local government within the same county as a tribe to enter into a voluntary agreement with a tribe to allow new tribal housing development projects to count toward the locality's share of RHNA if all of the following conditions are met:

    a) The local government executing the agreement has permitting authority over the site on which the tribal housing development is located;

    b) If the local government executing the agreement does not have permitting authority over the site on which the tribal housing development is located, the voluntary agreement must demonstrate that the housing units will be built, including, but not limited to, one or more of the following:

        i) Agreement with the tribe regarding approvals, permits, certificates of occupancy, or reporting new units to the Department of Finance;

        ii) Documentation from the tribe demonstrating that planned housing has been approved to be built within the current RHNA cycle; or

        iii) Data pertaining to the timing of project construction and unit affordability by household income category.

    c) The tribal housing development is located on a site within the boundaries of, or contiguous to, the local government; and

    d) The units in the tribal housing development meet the definition of housing unit, as defined by the United States Census Bureau.

2) Prohibits a local government from requiring a tribe to waive tribal sovereign immunity in order to enter into a voluntary agreement under this bill.

3) Defines the following for the purpose of the bill:

    a) "Local government" means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county;

b) "Tribal housing development" means a housing development located on a site held in fee simple by a tribe or held in trust by the United States for the benefit of a tribe; and

c) "Tribe" means a federally recognized Native American tribe.

4) 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 RHNA process. Sets out the process as follows: (a) Department of Finance (DOF) and the Department of Housing and Community Development (HCD) develop regional housing needs determinations; (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. (Government Code (GOV) 65584 and 65584.01)

2) Requires HCD, in consultation with each COG, to determine each region's share of housing need at least two years prior to the scheduled revision of the housing element, as provided, and requires the COG or HCD to adopt a final RHNA that allocates a share of the regional housing need to each city or county at least one year prior to the housing element due date for the region. (GOV 65584(b))

3) 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 the regional housing need for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. (GOV 65583(a)-(c))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: According to the author, "Reservations are treated as federal land for purposes of the RHNA and thus are considered ineligible to count toward the RHNA process. SB 507 creates an opportunity for local governments to engage with willing tribal partners to meet their regional housing needs."

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 planning cycle. The state is currently in the sixth housing element cycle. The determination 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 determination 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 determination. The COG provides HCD with its own regional data on several criteria. 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. HCD uses that data to produce the final determination, which must be distributed at least two years prior to the region's expected housing element due date. The COG must then take the determination and create a RHNA allocation methodology that distributes the housing need equitably amongst all the local governments in its region.

Adoption and Implementation of Housing Elements: All of the state's 539 cities and counties are required to appropriately plan for new housing 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 escalating penalties, including an accelerated deadline for completing rezoning, exposure to the "builder's remedy," public or private lawsuits, financial penalties, potential loss of permitting authority, or court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's housing need. To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share, as well as sites that can accommodate emergency shelter and interim interventions for those experiencing homelessness in a community. Where a community does not already contain the existing capacity to accommodate its fair share of housing, it must undertake a rezoning program to accommodate the housing planned for in the housing element.

Tribal Access to State Housing Programs*:* California has the largest Native American/American Indian population in the nation with nearly 360,500 Californians identifying in whole or part as "American Indian." California has 109 federally recognized tribes, which include nearly 100 small reservations and Rancherias spread across the state. Additionally, the rate of tribal poverty is more than twice that of the rest of California's population and one-third of tribal residents live below the federal poverty line.

Ownership of Tribal Lands Varies*:* California differs from other states in that only a small percentage of California tribes' land is held in trust by the U.S. government – often on reservations and Rancherias – as compared to fee land, under complete control of its tribal owner or individual tribal member, or restricted fee land, which is owned by a tribe or tribal member but cannot be sold or encumbered. Trust or restricted fee lands may also be allotted, in that these were formerly communal lands that have since been broken up into individual allotments redistributed among individual tribal members. As a result, there are a variety of complex tribal property ownership and land designation statuses that require specialized knowledge to navigate for purposes of developing tribal housing.

Tribal Housing and RHNA*:* Housing element statute does not explicitly allow tribal housing to be counted toward a local government's RHNA, since tribal housing is generally located on land held in federal trust. Because the population living on federal trust land is generally not included in a jurisdiction's population estimate on which its RHNA allocation is based, housing units built on that land is generally not counted as serving the jurisdiction's housing need.

In practice, HCD does sometimes allow housing units built on tribal lands to help meet a jurisdiction's RHNA. However, these sites are treated differently because the local government may not have authority over the planning, permitting, and decision-making processes of land owned by another public entity. Therefore, assurance must be provided that the jurisdiction will be able to successfully build housing on these sites; in addition, any housing that is built must meet the Census definition of a housing unit (e.g., not group quarters). Examples of assurance include an agreement granting the jurisdiction authority to approve, permit, certify occupancy, and/or report new housing units to the Department of Finance; documentation from the entity controlling the land demonstrating that the planned housing has been approved to be built within the current RNHA cycle; and data relating to the timing of project construction and unit affordability by household income category.[1]

This bill would authorize voluntary agreements between a locality and a tribe to allow new tribal housing development projects – including those on land held in federal trust – to count toward the locality's RHNA. The assurances that the jurisdictions will be able to successfully build housing on these sites as discussed above are provided for in this bill.

Arguments in Support: According to the Santa Ynez Band of Chumash Indians, the bill's sponsor, "In May of 2024, the Santa Barbara County Board of Supervisors approved a plan to rezone 28 sites across the County to meet the overall RHNA targets. The only site in the Santa Ynez Valley that was selected to meet the RHNA need was a Chumash-owned property on Highway 246 which the county rezoned to allow for the development of 91 low-income and 30 moderate-income units. Today this parcel on Highway 246 is owned in fee by the tribe, but the

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[1] HCD, "Housing Element Site Inventory Guidebook, Government Code Section 65583.2" (June 10, 2020), **Housing Element Sites Inventory Guidebook (ca.gov)**

tribe may eventually place this parcel into federal trust as part of the Chumash reservation. If that occurs, these 121 housing units will no longer count towards the County's RHNA total because tribal reservations are considered federal land exempt from RHNA. If this were to occur, Santa Barbara County would lose RHNA credit for these 91 low-income and 30 moderate-income housing units and potentially risk falling short of its RHNA obligations. Similarly, the Chumash also have plans for 143 new housing units on the Chumash reservation. The inclusion of these 143 units towards the RHNA, in addition to the 121 units on Chumash's Highway 246 parcel would provide 264 of the 280 new housing units, nearly 95% of the Santa Ynez Valley's RHNA allocation. Unfortunately, because the Chumash reservation is considered federal land, this potential new housing development cannot count towards Santa Barbara County's RHNA requirements under current law. SB 507 would allow the Chumash to partner with Santa Barbara County to solve for the required new housing in the Santa Ynez Valley and would provide opportunities for similar partnerships between tribes and local governments across the state.

Arguments in Opposition: None on file.

Related Legislation:

AB 670 (Quirk-Silva) of the current legislative session would make changes to the information that local governments must report in their Annual Progress Report (APR) each year 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, as specified, for up to 25% of a jurisdiction′s RHNA for lower income units. This bill is currently pending before the Senate Housing Committee.

AB 726 (Ávila Farías) of the current legislative session would allow local governments to include in their 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 is currently pending before the Senate Housing Committee.

AB 1131 (Ta) of the current legislative session would authorize a local planning agency to include in its APR the number of units approved for congregate housing for the elderly. This bill is currently pending before the Senate Housing 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

Santa Ynez Band of Chumash Indians (Sponsor)
Jamul Indian Village of California
Karuk Tribe
Santa Barbara County Board of Supervisors

Opposition

None on file.

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