

Date of Hearing: June 19, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 235 (Dodd) – As Amended March 25, 2019

SENATE VOTE: 36-0

SUBJECT: Planning and zoning: housing production report: regional housing need allocation

SUMMARY: Allows the City of Napa (city) and County of Napa (county) to reach an agreement regarding their regional housing needs assessment (RHNA) requirements regarding the Napa Pipe Project. Specifically, **this bill:**

- 1) Authorizes the county and city to reach a mutually acceptable agreement to allow one of the two jurisdictions to report in its annual progress report (APR), housing units developed in the other jurisdiction, if all of the following conditions are met:
 - a) The Department of Housing and Community Development (HCD) has deemed the housing elements of both jurisdictions to be compliant.
 - b) Both jurisdictions have submitted their APRs to HCD within the prior 12 months.
 - c) The housing units will only be reported in one jurisdiction's APR.
 - d) One of the following conditions applies to a housing development reported by one of the jurisdictions under this agreement:
 - i) The housing development reported by the jurisdiction pursuant to this agreement was in the county at the time of RHNA allocation but was annexed by the city after the final RHNA allocation, provided that all of the following conditions are met:
 - (1) The city annexed the territory after the final RHNA allocation.
 - (2) The council of government (COG) provides written confirmation that the methodology for the RHNA allocation did not account for the annexation.
 - (3) None of the county's RHNA allocation has already been transferred to the city.
 - ii) The development is on land owned by one of the jurisdictions but located within the boundaries of the other jurisdiction.
 - e) The board of supervisors and city council have each held a public hearing to solicit comment on the agreement prior to the agreement being executed, with specified information on the agreement provided publicly prior to each public hearing.
 - f) The agreement has been approved by both the board of supervisors and the city council, after making specified written findings.
- 2) States legislative intent regarding the unique circumstances relating to the RHNA allocation needs in the county.

- 3) Requires the county to comply with its full RHNA requirement if the Napa Pipe project does not move forward and requires HCD to report to the Attorney General's office if the county fails to do so.

EXISTING LAW:

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 2) Requires local governments located within the territory of a metropolitan planning organization (MPO) to revise their housing elements every eight years, following the adoption of every other regional transportation plan. Local governments in rural non-MPO regions must revise their housing elements every five years.
- 3) Provides that each community's fair share of housing be determined through the RHNA process, which is composed of three main stages: (a) the Department of Finance and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these estimates (where a COG does not exist, HCD makes the determinations); and (c) cities and counties incorporate their allocations into their housing elements.
- 4) Requires COGs to provide specified data assumptions to HCD from each COG's projections.
- 5) Requires the housing element to contain an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs.
- 6) Requires a locality's inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the locality's share of the regional housing need for all income levels.
- 7) Requires, where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, rezoning of those sites to be completed in a specified time period. Requires this rezoning to accommodate 100% of the need for housing for very low and low-income households for which site capacity has not been identified in the inventory of sites on sites that shall be zoned to permit rental multifamily residential housing by right during the planning period.
- 8) Prohibits a local jurisdiction from reducing or permitting the reduction of the residential density, or from allowing development at a lower residential density for any parcel, unless the jurisdiction makes specified written findings.
- 9) Requires each jurisdiction to submit an APR to HCD regarding its progress in meeting its RHNA allocation.

- 10) Authorizes HCD to notify the Attorney General if it at any time finds a jurisdiction out of compliance with its housing element.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of the Bill: According to the author, “Absent this legislation, the County of Napa has no legal mechanism to issue building permits or obtain credit for issuing building permits to be credited towards meeting the current RHNA despite Napa Pipe being a centerpiece of the County’s current Housing Element. SB 235 is critical to allowing the County and City to expedite the development of housing at a time when the state is in a housing crisis. The Napa Pipe property was initially zoned and entitled by the County of Napa and this legislation will allow all agreements put in place to remain and for housing to begin development in 2020.”

Background: Existing law requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

Existing law requires that local governments must accommodate in their housing element their fair share of housing be determined through the RHNA process. The RHNA allocation is divided into housing affordable at multiple economic strata, including very low income, low income, moderate income, and above moderate income. This fair share allocation occurs every eight years, and local governments are required to update their housing element accordingly.

Recent legislation (AB 1771, Bloom, Chapter 989, Statutes of 2018) included a number of RNHA reforms including a provision deleting the authority for two or more local governments to agree to an alternative distribution of allocations among themselves.

The Napa Pipe Project: The genesis of this bill is a project called “Napa Pipe.” Napa Pipe is the site of an old World War II naval shipyard and subsequent industrial uses (one of which was a steel pipe manufacturer named Napa Pipe) and is located in an urbanized area of the county, immediately adjacent to the city. In 2013, after nearly a decade of discussion, the county board of supervisors adopted a general plan amendment re-designating 135 acres of the 154-acre site for housing and mixed-use development. This action also rezoned a portion of the site and split it into two parcels, separated by a railroad right-of-way. Napa Pipe is now zoned to allow a total of 700 units (or 945 units with a density bonus) of housing, of which at least 140 must be designated low- or very-low-income.

The county and the developers entered into a development agreement, complemented by an interagency agreement between the county and city. Because Napa Pipe is immediately adjacent to city property, the city and county entered into various agreements outlining future entitlements, annexation, revenue sharing, affordable housing, and the provision of water and other municipal services by the city. The development agreement, as well as the various agreements between the city and county, anticipated that the project would be annexed to the county in four phases, subject to approval by the local agency formation commission (LAFCO)

and the voters. If the development within Phases 2, 3, and 4 (the phases that include housing) are not complete by 2022, all lands will annex to the city.

According to the county, the Napa Pipe developer recently determined, “after evaluating current market conditions and infrastructure scenarios,” that the project can only move forward if Phase 1 included up to 345 total units, including at least 50 very low- and low-income units. Because the area in Phase 1 has already been annexed to the city, the county would not be able to count the housing units towards the county RHNA share. In the original plan, Phase 1 included retail, hotel, and light industrial, with no housing. The housing was to be built in Phases 2, 3, and 4 on county land, which would subsequently be annexed to the city after the county got its RHNA credit. The new change would prevent the county from claiming the units, which removes most or all of the incentive for the county to help fund the project. The county states that if it pulls its funding, which it will likely do if it cannot claim RHNA credit, the project will cease.

Impact of the Bill: For Napa County’s 2015-2023 housing element cycle, their RHNA allocation is 180 units, including 67 above moderate-income units, 32 moderate income units, and 81 very low, low, and moderate-income units. Phase 1 of the Napa Pipe project is now projected to include 345 units, including at least 50 very low-, and low-income units. As such, these 50 units represent almost 60% of the county’s allocation of 81 very low- and low-income units.

Theoretically, the county could meet its RHNA obligation by building housing on unincorporated land outside of Napa Pipe. The county states, however, that in addition to the very long planning period for this project, which was intended to meet the county’s RHNA share for the fifth housing element cycle (2015-2023), many other possible sites are isolated or located in high-fire hazard zones. According to the county, the Napa Pipe site is “the most realistic” in its approved housing element. The county further states that since the Napa Pipe project is so far along, it will result in housing units much more quickly than if the county has to start over and identify a new site or sites.

Related Legislation:

AB 1771 (Bloom), Chapter 989, Statutes of 2018: This bill makes changes to the regional housing needs plan objectives, methodology, distribution, and appeals process.

SB 828 (Wiener), Chapter 974, Statutes of 2018: This made a number of changes to the RHNA process.

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

Napa County Board of Supervisors (Sponsor)
California Apartment Association
Napa Housing Coalition
Rural County Representatives of California

Opposition

None on file

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