

Date of Hearing: April 13, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2685 (Lopez) – As Amended March 18, 2016

**SUBJECT:** Housing elements: adoption

**SUMMARY:** Requires a local planning agency to make a draft housing element available to the public prior to the submission to the Department of Housing and Community Development (HCD). Specifically, **this bill:**

- 1) Requires the planning agency to make the draft housing element available to the public at least 30 days prior to the submission to HCD.
- 2) Requires the planning agency to provide public comments it has received to the legislative body before the housing element is adopted.
- 3) Makes other non-substantive technical changes.

**EXISTING LAW:**

- 1) Requires every city and county to prepare and adopt a general plan containing seven mandatory elements, including a housing element. (Government Code Sections 65300 and 65302)
- 2) Requires a jurisdiction's housing element to 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. (Government Code Section 65583)
- 3) Requires cities and counties 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. Cities and counties in rural non-MPO regions must revise their housing elements every five years. (Government Code 65588)
- 4) Requires, prior to each housing element revision, that each council of governments (COG), in conjunction with HCD, prepare a regional housing needs assessment (RHNA) and allocate to each jurisdiction in the region its fair share of the housing need for all income categories. (Government Code 65584).
- 5) Requires the housing element to contain a program which sets forth a schedule of actions during the planning period, each with a timeline for implementation.
  - a. In order to make adequate provision for the housing needs of all economic segments of the community, the program must include a diligent effort by the local government to achieve public participation of all economic segments of the community in the development of the housing element. (Government Code Section 65583)

- 6) Requires the jurisdiction to submit a draft housing element to HCD at least 90 days prior to adopting the housing element, or 60 days prior amending the housing element. (Government Code Section 65585)
- 7) Requires HCD to review the draft and report its written findings to the local jurisdiction within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment. (Government Code Section 65585)
- 8) Requires HCD to consider written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review. (Government Code Section 65585)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

Every local government is required to prepare a housing element as part of its general plan. The housing element process starts when HCD determines the number of new housing units a region is projected to need at all income levels (very low-, low-, moderate-, and above-moderate income) over the course of the next housing element planning period to accommodate population growth and overcome existing deficiencies in the housing supply. This number is known as the regional housing needs assessment (RHNA). The council of governments (COG) for the region, or HCD for areas with no COG, then assigns a share of the RHNA number to every city and county in the region based on a variety of factors.

The housing element must show how the city or county plans to accommodate its share of the RHNA. The housing element must include an inventory of sites already zoned for housing. If a community does not have enough sites within its existing inventory of residentially zoned land to accommodate its entire RHNA, then the community must adopt a program to rezone land within the first three years of the planning period.

During the development of the housing element, local governments are required to make a “diligent” effort to achieve public participation. Regarding public participation, HCD has previously stated: “Most jurisdictions use a variety of approaches such as workshops, surveys, and targeted outreach with community representatives to garner public participation. However, there are not consistent standards on what constitutes “diligent” resulting in a variety of strategies and efforts that may or may not achieve successful public participation. As a result, housing elements may not accurately reflect the housing needs of the community.” (<http://www.hcd.ca.gov/housing-policy-development/docs/staffreport-publicparticipation.pdf>).

Before a local government can adopt or amend its housing element, it must submit a draft to HCD for review. This is another opportunity for public participation, as HCD must consider any written comments it receives from a public agency, group, or person during the review process. The findings of HCD’s review have to be considered by the local government prior its adoption of the housing element or amendment to the housing element.

Purpose of the bill: According to the author, “The community feels very strongly about the need to be engaged in the public participation process at every opportunity and would like more opportunities to voice their views/comments/suggestions/opposition. Advocates feel that when they do make comments about housing issues, the City does not fully take those comments into account. In the case of the housing element update, it is too late to provide comment because the City is taking a vote on the approved housing elements and is not likely to want to amend the approved housing element. This bill would codify that the community has one more time to comment, that the City has to review public comment before taking a vote to adopt the plan.”

Staff comments: The bill does not address public access to the draft element after it is submitted to HCD where it may be further amended. The committee may wish to consider directing HCD to provide public access to the draft following each amendment, perhaps within an abbreviated timeframe.

Double referred: If AB 2685 passes this committee, the bill will be referred to the Committee on Local Government.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

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