
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

Bill No: AB 2597 **Hearing Date:** 6/18/2024
Author: Ward
Version: 6/10/2024 Amended
Urgency: No **Fiscal:** Yes
Consultant: Erin Riches

SUBJECT: Planning and zoning: revision of housing element: regional housing need allocation appeals: Southern California Association of Governments

DIGEST: This bill shortens the timeline for local governments to adopt their regional housing needs allocation (RHNA) plans and revises the statutory housing element adoption deadline for the Southern California Association of Governments (SCAG).

ANALYSIS:

Existing law:

- 1) 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 Department of Housing and Community Development (HCD) develop regional housing needs estimates;
 - b) Councils of government (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.

- 2) 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;
 - 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.

- 3) Requires a planning agency to submit a draft housing element revision to HCD at least 90 days prior to adoption of a revision of its housing element pursuant to statutory deadlines, or at least 60 days prior for a draft amendment. Requires the local government to make the first draft revision of the housing element available for public comment for at least 30 days and, if any comments are received, requires the local government to take at least 10 business days after the 30 day public comment period to consider and incorporate public comments into the draft revision prior to submitting it to HCD.
- 4) Requires HCD to review the draft and report its written findings to the planning agency within 90 days of its receipt of the first draft submittal for each housing element revision or within 60 days of receipt of a subsequent draft amendment or an adopted revision or adopted amendment to a housing element. Prohibits HCD from reviewing the first draft submitted for each housing element revision until the local government has made the draft available for public comment for at least 30 days and, if comments were received, has taken at least 10 business days to consider and incorporate public comments.
- 5) Requires HCD, in its written findings, to determine whether the draft element or draft amendment substantially complies with housing element law.

This bill:

- 1) Reduces, from 45 days to 30 days after the RHNA allocation is received, the period during which a local government and HCD may appeal to the COG for a revised RHNA share.
- 2) Eliminates the requirement for the COG, at the closing of the appeals filing period, to make any appeals available on its website. Eliminates the 45-day period for local governments and HCD to make comments on any of these appeals. Eliminates the authorization for the COG to publish the final RHNA allocation if no appeals are filed.
- 3) Reduces, from 30 days to 20 days after the appeals deadline, the period during which the COG must conduct one public hearing to consider all appeals filed. Reduces the required notice for this hearing from 21 days to 10 days, and eliminates the requirement for the public hearing to include comments received on appeals.

- 4) Reduces, from 45 days to 30 days after the public hearing, the requirement for the COG to both make a final determination that it accepts, rejects, or modifies each appeal for a revised RHNA allocation; and issue a proposed final RHNA allocation plan. Adds to these provisions a requirement for the COG to submit the proposed final allocation plan to HCD, and a requirement for the COG to set a date for a public hearing to adopt a final allocation plan.
- 5) Reduces, from 45 days to 10 days after issuance of the proposed final RHNA allocation plan, the requirement for the COG to hold a public hearing to adopt it.
- 6) Reduces, from 30 days to 15 days after receipt, the requirement for HCD to determine if the final RHNA allocation plan is consistent with existing and projected housing need for the region.
- 7) Retains the existing law authorization for a COG to extend the time periods in (2) or (5).
- 8) Revises the housing element due dates for the seventh and subsequent housing element cycles for local governments within SCAG as follows:
 - a) All jurisdictions within SCAG other than Los Angeles County inclusive must adopt a housing element 24 months after adoption of every second RTP update.
 - b) Los Angeles County and all local governments within Los Angeles County must adopt a housing element 18 months after adoption of every second RTP update.

COMMENTS:

- 1) *Author statement.* “AB 2597 is a good government measure intended to help local governments, interested stakeholders, and HCD have more capacity and time to produce, edit, and review the close to 200 housing elements that are simultaneously due on each housing element cycle for jurisdictions within the Southern California Association of Governments. The bill does this by creating two ‘phases’ of housing element due dates for SCAG – so that the workload spike is much more manageable for all parties and good quality housing elements can be drafted, reviewed by HCD, and adopted with less strain in the future. The bill also shortens timelines for appeals of regional housing allocations to expedite the adoption of the final allocation plan so local governments can get started on their housing elements faster.”

- 2) *Housing elements.* Every city and county in California is required to develop a general plan that outlines the community's vision of future development through a series of policy statements and goals. A community's general plan lays the foundation for all future land use decisions, as these decisions must be consistent with the plan. General plans are comprised of several elements that address various land use topics. State law mandates seven elements: land use, circulation (*e.g.*, traffic), housing conservation, open-space, noise, and safety.

Each community's general plan must include a housing element, which outlines a long-term plan for meeting the community's existing and projected housing needs. The housing element demonstrates how the community plans to accommodate its "fair share" of its region's housing needs. Following a staggered schedule, cities and counties located within the territory of a metropolitan planning organization (MPO) must revise their housing elements every eight years, and cities and counties in rural non-MPO regions must revise their housing elements every five years (see #6 below). These five- and eight-year periods are known as the housing element planning period.

In general, a housing element must identify and analyze existing and project housing needs, identify adequate sites with appropriate zoning to meet its share of the RHNA, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.

- 3) *The RHNA process.* Before each housing element revision, each community is assigned its fair share of the region's housing need for four separate income categories (very low-, low-, moderate-, and above-moderate income households) through a two-step process known as RHNA. First, HCD determines the aggregate housing need for the region during the planning period the housing element will cover; then the COG allocates the regional housing need to each city and county within the region. This timeline runs as follows:
- a) *Draft RHNA allocation:* At least 18 months prior to the housing element due date, each COG must distribute a draft RHNA allocation to each local agency within its jurisdiction.
 - b) *Appeals period:* Within 45 days of receiving the draft allocation, a local government (or HCD) may appeal to its COG for a revised RHNA share.
 - c) *Comments period:* At the close of the appeals period, the COG must notify all local agencies within its region, and HCD, of any appeals that have been filed, make all appeals materials publicly available on its website, and accept comments on the appeals for 45 days. If no appeals are filed, the COG may issue the proposed final allocation plan.

- d) *Public hearing regarding appeals:* No later than 30 days after the close of the comment period, and after providing all local governments within its jurisdiction with at least 21 days' prior notice, the COG must conduct one public hearing to consider any and all appeals filed.
 - e) *Proposed final RHNA allocation:* No later than 45 days after the public hearing regarding appeals, the COG must make a final determination that it accepts, rejects, or modifies each appeal for a revised RHNA allocation; and issue a proposed final allocation plan.
 - f) *Public hearing regarding final allocation plan.* Within 45 days after issuance of the proposed final RHNA allocation plan, the COG must hold a public hearing to adopt a final RHNA allocation plan. Within three days of adopting the final allocation plan, the COG must submit it to HCD.
 - g) *HCD approval of final allocation plan.* Within 30 days of receiving a final allocation plan from a COG, HCD must determine whether it is consistent with the existing and projected housing need for the region. HCD may revise the determination if necessary.
 - h) *Timeline adjustments.* A COG may extend the appeals period in (b) or the period to issue a final allocation plan in (e).
- 4) *Revising the RHNA timeline.* To address concerns about a lack of transparency and a failure to adequately address the state's housing crisis, in recent years the Legislature has enacted a number of changes to the RHNA and housing element processes. AB 1771 (Bloom, Chapter 989, Statutes of 2018) significantly revised the RHNA allocation process; among other things, it established most of the timeline outlined in (3) above, including providing for an appeals period as well as a period for comments on any appeals filed. This bill would streamline the timeline as follows:
- a) Shortens the appeals period for local agencies to request a RHNA allocation from their COG.
 - b) Eliminates the period to make appeals filings publicly available; also eliminates the comments period for appeals filings.
 - c) Shortens the period during which COG must hold a public hearing on any appeals; also shortens the notice requirement for this hearing.
 - d) Shortens the period for the COG to make a final determination and issue a proposed final RHNA allocation plan.
 - e) Shortens the period for a COG to hold a public period on the proposed final allocation plan.
 - f) Shortens the period for HCD to sign off on the final RHNA allocation plan submitted by the COG.

The author notes that shortening the timeline will help ensure that a COG is able to issue the final RHNA allocation as quickly as possible, without being delayed by appeals; this will in turn enable local governments get started sooner on drafting their revised housing elements.

- 5) *Seventh housing element cycle.* Each city must revise its housing element every eight years (every five years for some rural areas). The option to use an eight-year schedule was created to better align with the schedule that COGs and MPOs must meet in order to update their regional transportation plans (RTPs). The RTP, which must be updated every four years, identifies the region's vision and goals and how to implement them and supports the state's goals for transportation, environmental equity, economic growth, and social equity.

Currently, most local governments should have adopted their housing element or be in the process of finalizing their sixth housing element. To ease HCD workload, regions have staggered start dates for the RHNA cycles. For example, the seventh cycle for the Sacramento Area Council of Governments (SACOG), the San Diego Association of Governments (SANDAG), and SCAG is 2029-2037, while the seventh cycle for the Association of Bay Area Governments (ABAG) is 2031-2039.

The SCAG region encompasses six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura) and 191 cities. Los Angeles County alone includes 88 cities and constitutes nearly half of the total SCAG jurisdiction. Under existing law, all SCAG jurisdictions must adopt the seventh cycle housing element 18 months after adoption of every other RTP update; for the seventh cycle, HCD estimates this date to be October 15, 2029. This bill would move the adoption date for Los Angeles County, and the cities within that county, out to 24 months after adoption of every other RTP (*e.g.*, April 15, 2030). Since the only other regions with estimated 2030 due dates are the Butte County Association of Governments (June 2030) and Del Norte County (September 2030), and ABAG's due date is January 2031, moving Los Angeles County inclusive to April 2030 would significantly smooth out HCD's workload in providing timely review and written feedback. The author also notes that by more evenly distributing this workload, this bill could help HCD provide more individualized technical assistance and deeper feedback on drafts for each jurisdiction, which could potentially reduce the need for multiple subsequent draft housing elements.

RELATED LEGISLATION:

AB 1886 (Alvarez, 2024) — clarifies that a housing element or amendment is considered substantially compliant with housing element law until the local agency has adopted a housing element that HCD has determined is in substantial compliance with housing element law, as specified. *This bill will also be heard in this committee today.*

AB 1771 (Bloom, Chapter 989, Statutes of 2018) – made a number of changes to the RHNA plan objectives, methodology, and allocation process.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 12, 2024.)

SUPPORT:

None received

OPPOSITION:

None received

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