

- 3) Requires HCD, at least 26 months prior to the housing element adoption deadline for the region and prior to developing the existing and projected housing need for a region, to meet and consult with the COG regarding the assumptions and methodology to be used by HCD to determine the RHND. Requires the COG to provide data assumptions from their projections, including, among others:
 - a) Anticipated household growth associated with projected population increases;
 - b) Household size data and trends in household size;
 - c) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;
- 4) Allows HCD to accept or reject the information provided by the COG in (3) or modify its own assumptions or methodology based on this information.
- 5) Requires HCD, after consultation with the COG, to make determinations in writing on the assumptions for each of the factors in (3) and the methodology it shall use, and requires HCD to provide these determinations to the COG.
- 6) Requires HCD, after consultation with the COG, to make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined in (3) – (5). Requires the RHND to reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Requires each city and county to adopt a housing element, which must contain specified information, programs, and objectives.

This bill:

- 1) Requires HCD to publish on its website the data sources, analyses, and methodology to be used by the department to determine the RHND, including specified assumptions and factors used in and applied to the DOF projections and engagement process with the COGs, prior to finalization of the RHND.
- 2) Requires HCD, for the seventh and subsequent housing element cycles, to assemble and convene an advisory panel to advise HCD on its assumptions and the methodology it shall use for purposes of the RHND. Requires the panel to be composed of all of the following:
 - a) A United States Census Bureau-affiliated practitioner;
 - b) An expert on specified data; and
 - c) A representative from the COG.

- 3) Requires HCD to consult with the advisory panel before making determinations in writing on specified data assumptions and the methodology it shall use for the RHND, and to provide the written determinations to the COG and publish them on HCD's website.

COMMENTS:

- 1) *Author's Statement.* "There are more than 181,000 Californians who are unhoused. I believe we have made good progress at both the state and local levels when it comes to planning for more housing, and with each RHNA cycle, we are refining the process. But we must do better. The California State Auditor's report published in March 2022 on HCD's RHNA determination process highlighted the need for accountability and transparency on HCD's methodology and assumptions. HCD's assumptions and methodology should be clear and accessible to stakeholders to ensure confidence in the process. That is why AB 2485 is focused on embedding inclusivity and transparency in HCD's engagement and outreach efforts which are critical to fostering the collaboration and trust that are essential to housing production in California."
- 2) *Adoption and Implementation of Housing Elements.* One important tool in addressing the state's housing crisis is to ensure that all of the state's 539 cities and counties appropriately plan for new housing. Such planning is required 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 certain escalating penalties, including exposure to the "builder's remedy" as well as public or private lawsuits, financial penalties, potential loss of permitting authority, or even court receivership.

Among other things, the housing element must demonstrate how the community plans to accommodate its share of its region's housing needs allocation (RHNA), which is a figure determined by HCD through a demographic analysis of housing needs, existing housing stock, and population projections in consultation with DOF and the COG. HCD establishes its determination of each COG's regional housing targets across the state for the next five- or eight-year planning cycle. Each COG (or in some areas, HCD acting directly as COG) then sub-allocates the RHNA to each local government within the COG's jurisdiction, and in turn each jurisdiction uses its housing element to show how it will accommodate that number of new housing units, split out by income

level and with a focus on certain special needs housing types and on affirmatively furthering fair housing.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment for the successful construction of desperately needed housing at all income levels. Unless communities plan for production and preservation of affordable housing, new housing will be slow or extremely difficult to build. Adequate zoning, removal of regulatory barriers, protection of existing stock and targeting of resources are essential to obtaining a sufficient permanent supply of housing affordable to all economic segments of the community. Although not requiring the community to develop the housing, housing element law requires the community to plan for housing. Recognizing that local governments may lack adequate resources to house all those in need, the law nevertheless mandates that the community do all that it can and not engage in exclusionary zoning practices.

- 3) *RHND/RHNA Methodology.* The RHND/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 RHND is assigned at the COG level, while RHNA is suballocated to subregions of the COG or directly to local governments. RHNA is assigned to four 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).

The cycle begins with HCD and the 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 RTP forecast. 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 projected population increases; household size data; percentage of overcrowded households; the rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures; vacancy rates; relationship between jobs and housing; percentage of households that are cost burdened; loss of units during a declared state of emergency that have yet to be rebuilt or replaced.

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 is 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.

In past housing element cycles, RHNA had been criticized as being a political rather than a methodologically sound, data-driven process. In the past, jurisdictions with a higher share of wealthier, whiter residents were more likely to have received lower allocations of moderate and lower income housing, while more diverse cities sometimes received higher allocations of those categories. The Legislature made a number of changes to the RHND, RHNA, and housing element process over the past several years to strengthen the law and restrict the ability of jurisdictions to evade their housing obligations.

- 4) *2022 RHNA Audit*. The audit found HCD needs to review its needs assessment of data entry, and consideration of factors including housing vacancy rates. DOF also was found to need to further review their methods and receive information from relevant experts.¹

In response to the audit's findings, HCD committed to, and completed, the following actions:

- a) Instituting a process for performing multiple reviews of data included in the RHND assumptions to improve quality control;
- b) Creating additional process documents to provide evidence of adequate consideration of all factors required by state law in its needs assessment;
- c) Completing a formal analysis of healthy vacancy rate trends to support their use of a 5% vacancy target rate for healthy housing markets; and
- d) Formalizing a technical assistance document to use when reviewing COG data on comparable regions and healthy housing markets.

DOF also committed to, and completed, the following actions:

- a) Reviewing its population projections for counties after 2020 Census data was made available and adjust the methodology as necessary; and

¹ <https://www.auditor.ca.gov/reports/2021-125/index.html#section1>

b) Reviewing assumptions used in projecting household formation rates after the release of more detailed 2020 Census data and better document this review.²

5) *Policy Considerations.* This bill would require HCD to publish more of its data sources and methodology factors before finalizing the RHND. It would also require HCD to assemble and convene advisory panels for each future COG's RHND process and consult with those panels during the formation of the RHND methodology and in reviewing all the data points listed above when formulating the existing and projected housing need for each region for each future housing element cycle. This consultation is in addition to the existing consultation requirements that currently exist with the COGs themselves. The panel would have to be comprised of a US Census Bureau-affiliated practitioner, a data expert, and a representative from the COG. This would build in another layer of consultation and review to the RHND process, which is somewhat duplicative given the department's existing COG consultation obligations, and would cause delays in the development of the final RHND, which HCD must provide to the COG no later than two years prior to the scheduled revision of the housing element. Though the intention of the bill is to fold the panel consultation into the existing RHND timeline, this would extend that process and it is also unclear what HCD's obligations would be to respond to the advisory panel's feedback.

The author has agreed to amend the bill to require HCD to engage in a single stakeholder process at the start of each RHNA cycle, rather than hold individual HCD and COG advisory panels. HCD recently completed a similar effort, resulting in part in the California's Housing Future 2040 Report which includes a number of recommendations that HCD is currently implementing. These amendments would allow the subsequent HCD and COG consultation process to be informed by the various expertise currently required in the bill without causing the delays resulting from individual panels. However, this would only begin to apply in the 8th cycle. **To ensure improved transparency and accountability for the current 7th RHNA cycle, the author has agreed to work with HCD and the committee going forward to further detail HCD's ongoing engagement with COGs and other stakeholders.**

6) *Opposition.* South Pasadena Residents for Responsible Growth are opposed to the bill because they don't believe the RHNA process would truly be improved

² <https://www.auditor.ca.gov/reports/2021-125/index.html#section6>

or become more transparent by the presence of the sponsor on the advisory panel.

RELATED LEGISLATION:

AB 2597 (Ward, 2024) — modifies future housing element due dates for the Southern California Association of Governments by creating two split phases of adoption due dates. *This bill is pending before the Appropriations Committee.*

SB 828 (Wiener, Chapter 974, Statutes of 2018) — made a number of changes to the RHND and RHNA process, including adding more specificity to certain information regarding overcrowding rates, vacancy rates, and adding a requirement to include data on the percentage of cost burdened households in the RHND.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2024.)

SUPPORT:

Southern California Association of Governments (SCAG) (Sponsor)
Association of Bay Area Governments
California Contract Cities Association
California State Association of Counties
City of Cerritos
City of Santa Ana
City of Simi Valley
City of Thousand Oaks
County of Los Angeles
League of California Cities
Livable California
Madera County Transportation Commission
Marin County Council of Mayors and Councilmembers
Metropolitan Transportation Commission
Mission Street Neighbors

OPPOSITION:

South Pasadena Residents for Responsible Growth