
SENATE COMMITTEE ON HOUSING
Senator Scott Wiener, Chair
2023 - 2024 Regular

Bill No: AB 1335 **Hearing Date:** 6/20/2023
Author: Zbur
Version: 6/13/2023 Amended
Urgency: No **Fiscal:** Yes
Consultant: Aiyana Cortez

SUBJECT: Local government: transportation planning and land use: sustainable communities strategy

DIGEST: This bill makes changes to the housing projections included in sustainable communities strategies (SCSs) and adds additional reporting requirements.

ANALYSIS:

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) Provides that each community’s fair share of housing be determined through the regional housing needs allocation (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.
- 3) Requires the population forecast developed by the COG to be the basis from which HCD determines the existing and projected need for housing in the region, if the total regional population forecast for the projection year,

developed by the COG and used for the preparation of the RTP, is within a range of 1.5% of the total regional population forecast for the projection year by DOF.

- 4) Requires HCD and the COG to meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region, if the difference between the total population projected by the COG and the total population projected for the region by DOF is greater than 1.5%.
- 5) Requires the population projection for the region to be the one prepared by DOF as may be modified by HCD as a result of discussions with the COG, in the case of a discrepancy greater than 1.5%, where an agreement cannot not reached.
- 6) Establishes the California Air Resources Board (CARB) as the air pollution control agency in California and requires CARB, among other things, to control emissions, including greenhouse gases (GHG), from a wide array of mobile sources and coordinate, encourage, and review the efforts of all levels of government as they affect air quality.
- 7) Requires and establishes a process for CARB to provide Metropolitan Planning Organizations (MPOs) with GHG emissions reductions targets, and update those targets every eight years.
- 8) Requires, as a part of the Regional Transportation Plan (RTP) an SCS, as specified, to be prepared by each MPO, to identify transportation, housing, and land use measures and policies that will reduce GHG emissions and allow the region to meet CARB's regional greenhouse gas (GHG) emission reduction targets.
- 9) Allows, if the SCS is unable to reduce GHG emissions to achieve the GHG emission reduction targets established by ARB, the MPO to instead prepare an Alternative Planning Strategy (APS) to the SCS showing how those GHG emission reduction targets would be achieved through alternative development patterns, infrastructure, or additional measures or policies.
- 10) Requires the SCS, among other things, to do all of the following:
 - a) Identify the general location of uses, residential densities, and building intensities within the region;

- b) Identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the RTP taking into account net migration into the region, population growth, household formation and employment growth;
 - c) Identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region, as specified;
 - d) Identify a transportation network to service the transportation needs of the region;
 - e) Consider the state housing goals, as specified;
 - f) Set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce GHG emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, GHG reduction targets approved by CARB; and,
- 11) Requires each jurisdiction to prepare an annual progress report (APR) by April 1st of each year on the jurisdiction's status and progress in implementing its housing element using forms and definitions adopted by HCD for the previous calendar year to be submitted to the Governor's Office of Planning and Research (OPR) and HCD.

This bill:

- 1) Requires the SCS to additionally set forth the total number of new housing units necessary to house the eight-year projection pursuant to the RHNA process.
- 2) Requires that the total number of new housing units identified to house this projection, shall not be less than the total number of housing units that represent the final regional housing needs determination for the region, as determined by the HCD.
- 3) States that (2) above is declaratory of existing law.
- 4) Requires the following information be submitted as part of a jurisdictions APR with respect to areas identified for residential or mixed-use developments in the applicable SCS or APS:
 - a) The number of housing units that have commenced, but have not completed, construction.
 - b) The number and affordability levels of housing units approved.
 - c) The number of residential or mixed-use projects proposed and the number of housing units included in each application for the project.

- d) Whether the residential or mixed-use project proposed involved a general plan amendment, an adoption or amendment of a specific plan, a rezoning, or other approval by the local government's legislative body.

COMMENTS:

- 1) *Author's statement.* "Complementary housing and transportation planning are important to our ability to address the linked crises of housing affordability and climate change. The Sustainable Communities Strategy (SCS) program encourages sustainable land use planning that reduces the vehicle miles traveled and increases housing that is accessible to public transportation. AB 1335 requires local governments to report annually on what actions, if any, they are taking to align their land use regulations with the SCS and makes clarifying changes to the SCS so that there is better consistency between the ways that the SCS and Regional Housing Needs Allocation (RHNA) processes are prepared."
- 2) *Regional transportation planning.* Federal and state requirements for the development of RTPs have been in law since the 1970's, with additional requirements added over the years. MPOs must prepare a key planning document called the RTP. The RTP has a long-term horizon of at least 20 years and identifies existing and future transportation needs in the region. It includes rough cost estimates for transportation projects and is fiscally constrained (*i.e.*, the total anticipated cost of the proposals is limited to the total reasonably anticipated revenues for the term of the plan). However, specific fund sources are usually not identified for the individual transportation proposals. The RTP must also conform to federal air quality requirements in nonattainment or maintenance areas. Federal law requires MPOs/ RTPAs submit an RTP at least every four years.
- 3) *Emissions reductions through land use planning.* In 2008, the Legislature passed SB 375 (Steinberg), a first-of-its-kind law to recognize the critical role of integrated transportation, land use, and housing decisions to meet state climate goals. The law requires each of California's 18 regional MPOs to include a new element in their RTPs – an SCS. The key guiding metric in a SCS is a GHG emission reduction target, which is decided by ARB upon consideration of a district's specific challenges and capabilities. This target is supposed to guide long-term planning and local decision making on new transit, housing, and roadway projects. Ultimately, while these targets are intended to guide planning discussions, they are not enforceable. The question of how MPOs fund projects that advance their SCS remains open, and MPOs do not have the authority to directly regulate land use.

As required by SB 150 (Allen, 2017), CARB prepared a report describing the MPOs' progress towards achieving the GHG emission reductions contained in their SCS documents. That report found that California is not on track to meet the GHG reductions expected under SB 375 for 2020, with emissions from statewide passenger vehicle travel per capita actually increasing. It is unlikely that any MPO achieved their 2020 GHG emission reduction goals. Without substantial changes, it will be unlikely they will achieve the currently set 2035 goals either. CARB concluded, "Structural changes and additional work by all levels of government are still necessary to achieve state climate goals and other expected benefits". This aligns with the 2017 Scoping Plan update, which states additional vehicle-miles traveled (VMT) reduction beyond that included in the SB 375 targets are necessary to achieve SB 32 goals.

Although reducing transportation emissions means decreasing both the number of vehicles on the road and cleaning up the vehicles that are there, emission reduction progress has primarily come from the latter. While transit improvements, active transportation policy, and transit-oriented development can help reduce VMT, SB 375 is unique in its explicit recognition of the interconnectedness of transportation, housing, and land use decisions for GHG emission reductions.

- 4) *Regional housing needs.* California requires that all local governments (cities and counties) adequately plan to meet the housing needs of everyone in the community. This process starts with the state determining how much housing at a variety of affordability levels is needed for each region in the state, and then regional governments develop a methodology to allocate that housing need to local governments. California's local governments then adopt housing plans (called housing elements) as part of their "general plan" (also required by the state) to show how the jurisdiction will meet local housing needs.

HCD is responsible for determining the regional housing need allocation (RHNA) for each region's COG with input from DOF. HCD and the COG consult and compare data related to demographic trends and housing conditions in the region, including consistency with the SCS-identified development pattern. After this consultation, HCD issues the final RHNA number for the region, which is broken out by income categories (very low-, low-, moderate-, and above moderate-income). The final housing need determination must be issued at least two years before the next Housing Element due date. The determination accounts for both the existing and projected housing need in each region and must further the five statutory objectives of RHNA. Each local government must then update the Housing Element of its general plan to show

the locations where housing can be built and the policies and strategies necessary to meet the community's housing needs.

- 5) *Working group in progress.* AB 101 (2019) directs HCD to engage stakeholders and collaborate with the Office of Planning and Research (OPR) to develop recommendations related to the Regional Housing Needs Allocation (RHNA) process and methodology. Upon completion of this stakeholder engagement process, HCD will compile its findings and recommendations, and will submit a report to the Legislature by December 31, 2023. Since this process includes a review of housing and transportation planning alignment, this bill may be premature.
- 6) *Housing elements and annual reporting.* Existing law requires every city and county to prepare a housing element as part of its general plan. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels. Each jurisdiction must submit an APR to HCD by April 1st of each year that documents its progress toward meeting its RHNA allocation and the plans outlined in its housing element. This bill intends to address the difficulty in obtaining information about what local governments are doing to align local land use regulations with the SCS or APS by requiring local governments report progress they are making as part of the currently required APR, as specified. **Due to time constraints and to address opposition concerns about the uses of this data, the committee will be accepting clarifying author's amendments related to the additional reporting requirements.**
- 7) *Relationship and discrepancies between RHNA and SCSs.* An SCS must establish a reduced development blueprint for the region which will reduce greenhouse gas emissions. But, it must also take into account the state housing goals contained in the Housing Element Law and identify areas sufficient to house all economic segments of the population over the 20- to 30-year term of an RTP, including areas sufficient to accommodate an eight-year RHNA. If the MTO determines that the draft SCS is unable to reduce greenhouse gases to target levels established by CARB, it must prepare an APS. Neither the SCS nor the APS regulates or supersedes the land use authority of local government. It also does not require consistency with local land use laws or policies, including the general plan, and the RTP, including the SCS, or the APS.

RHNA allocations must also be consistent with SCS-identified development patterns and use. However, only if a COG's household projection is within

1.5% of DOF’s estimate is HCD is legally required to use the COG’s household growth projection to estimate the region’s future housing need. A difference of greater than 1.5% results in HCD utilizing DOF’s estimates. Planning timelines, under current law, require an SCS development pattern to be finalized before RHNA so that the identified development patterns can inform the housing needs allocation process.

Despite these connections between SCS and RHNA, significant divergences occur between the relative projections, especially for some of the most populous areas in the state. According to the sponsors, SCS housing projections consistently anticipate less growth than the RHNA estimated need; if the RTP/SCS anticipates less population growth than RHNA, mixed-income housing developments may not meet the criteria that make them eligible for CEQA streamlining or state-funded grant programs that are tied to SCS alignment. It is unclear if this was an anomaly of changes to the 6th cycle RHNA process or whether these differences will persist through future RHNA cycles.

City	SCS Projected Increase in Households (2016-2045)	RHNA (housing units) (2021-2029)	RHNA Exceeds SCS Estimates
Los Angeles	426,000	456,643	Yes
Anaheim	21,600	17,453	Yes
Riverside	20,600	18,458	Yes
San Bernardino	9,100	8,123	Yes
Ventura	5,600	5,312	Yes

Sources: “Demographics and Growth Forecast,” pages 33 & 35 Connect SoCal 2020 RTP/SCS. Southern California Association of Governments 6th Cycle Final RHNA Allocation Plan.

While both SCS projections and RHNA are statutorily intertwined, there are limited checkpoints to review and establish alignment between the two by the state. It is currently unclear the extent to which alignment between SCS population projections and RHNA is required across the varying planning timelines (8 years for RHNA and 20-30 years for SCS). The author of this bill intends to strengthen this alignment by setting the RHNA allocation as the minimum housing projection for the first 8 years of the long term SCS planning period. **Due to time constraints and to address ambiguities in the current bill, the committee will be accepting clarifying author’s amendments to align the planning process to achieve the author’s goals.**

- 8) *Technically speaking.* **The author will accept a technical amendment removing the statement that specified language in this bill is declaratory of existing law.**

- 9) *Opposition.* This bill would require the SCS development pattern be rooted in the eight-year RHNA. The current timeline is structured so that the SCS development pattern, whose primary goal is reducing passenger vehicle-related greenhouse gas emissions, informs the RHNA. The opposition argues that if the Legislature wants to reverse this process to instead require that the RHNA inform the SCS development pattern, conforming changes would be needed to revise the sequencing of SCS and RHNA timelines. They also argue that revising the methodology for population and development for forecasts is not a meaningful way to address the state's housing shortages is too prescriptive and would impact their planning.
- 10) *Double referral.* This bill has also been referred to the Senate Transportation Committee.

RELATED LEGISLATION:

AB 2237 (Friedman, 2022) — would have required consistency between the policies and programs in the Regional Transportation Plan and the SCS. *This bill died in the Senate Transportation Committee.*

AB 1147 (Friedman, 2021) — would have required local governments to report on the actions they have taken to implement the SCS and barriers to doing so. *This bill was vetoed by the Governor.*

Although the bill seeks to improve transparency to the Sustainable Community Strategies process, it does not require or incentivize regional and local governments to make land use decisions that change development and transportation patterns.

While I share the author's goal to align policies and promote the use of active transportation modes such as walking and biking, the bill is not necessary because state agencies are already collaborating on these policies and updating local requirements.

I proposed \$7.6 billion to make key investments in a wide variety of critically necessary projects including high speed rail, transit connectivity projects in advance of the 2028 Los Angeles Olympics, active transportation, and a variety of other rail system improvements. Not only will these projects improve safety and access for bicyclists and pedestrians, they will significantly reduce greenhouse gas emissions and are key to meeting our state's climate objectives. I look forward to re-engaging with

the Legislature to finalize and pass a comprehensive transportation package early next year.

AB 101 (Committee on Budget, Chapter 159, Statutes of 2019) — directs HCD to engage stakeholders and collaborate with the Office of Planning and Research (OPR) to develop recommendations related to the Regional Housing Needs Allocation (RHNA) process and methodology.

SB 375 (Steinberg, Chapter 728, Statutes of 2008) — established the SCS program.

SB 146 (Beall, Chapter 177, Statutes of 2020) — characterized workshops and informational hearings held as part of the SCS procedures as public engagement gatherings.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, June 14, 2023.)

SUPPORT:

- Abundant Housing LA (Sponsor)
- Activesgv
- Ascencia
- Bay Area Council
- BuildCasa
- California Association of Realtors
- California Community Builders
- California Environmental Voters
- California YIMBY
- Central City Association of Los Angeles
- CivicWell
- Climate Action Campaign
- Community Corporation of Santa Monica
- East Bay YIMBY
- Fieldstead and Company, INC.
- Greenbelt Alliance
- How to ADU
- Inner City Law Center
- Livable Communities Initiative
- Midpen Housing

Mountain View YIMBY
National Association of Hispanic Real Estate Professionals (NAHREP)
Northern Neighbors
Our Future Los Angeles
PATH (People Assisting the Homeless)
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
San Francisco YIMBY
Sand Hill Property Company
Silicon Valley At Home (SV@HOME)
Silicon Valley Leadership Group
Slo County YIMBY
South Bay YIMBY
Southside Forward
Streets for All
The Santa Monica Democratic Club
United Way of Greater Los Angeles
Urban Environmentalists
Venice Community Housing Corporation
YIMBY Action

OPPOSITION:

Association of Bay Area Governments (ABAG)
Metropolitan Transportation Commission

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