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

Bill No: SB 7 **Hearing Date:** 4/18/2023
Author: Blakespear
Version: 4/10/2023 Amended
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Regional housing needs allocation: homelessness

DIGEST: This bill: (1) adds “homeless” to the income categories identified in the housing element; (2) for purposes of the regional housing needs allocation (RHNA) process, includes an objective of fulfilling the local government’s obligation to provide housing fit for human habitation; (3) creates the Homeless Housing Obligation Act, which requires, on or after January 1, 2025, each local government to develop a housing obligation plan to fulfill a specified homeless housing obligation; and (4) requires the Department of Housing and Community Development (HCD) to provide an unspecified amount of money in the form of grants for awards to local governments to provide housing for homeless individuals.

ANALYSIS:

Existing law:

- 1) Establishes HCD, which implements, among other things, the following programs:
 - a) Multifamily Housing Program (MHP) to assist the new construction, rehabilitation, and preservation of permanent and transitional rental housing for lower income households through loans to local governments and non- and for-profit developers.
 - b) Joe Serna, Jr. Farmworker Housing Grant Program (Serna Program) to finance the new construction, rehabilitation, and acquisition of owner-occupied and rental units for agricultural workers, with a priority for lower income households.
 - c) Provides, through SB 2 (Atkins, Chapter 364, Statutes of 2017), the Building Jobs and Homes Act with funding for, among other programs, affordable homeownership and rental housing opportunities for agricultural workers and their families.

- d) Infill Infrastructure Grant Program (IIG) to assist in the new construction and rehabilitation of infrastructure that supports higher density affordable and mixed-income housing in locations designated as infill, such as water and sewer extensions.
- 2) Provides that each community's fair share of housing be determined through the RHNA process, which is composed of three main stages: (a) 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 COGs, as part of their regional housing needs plan, to further specific objectives, including:
 - a) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low- and very low-income households.
 - b) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region's greenhouse gas reductions targets provided by the State Air Resources Board.
 - c) Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.
 - d) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent American Community Survey.
 - e) Affirmatively furthering fair housing.
 - 4) 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.
 - 5) Requires the housing element to include an assessment of housing needs for above moderate income, moderate-income, low-income, and very low-income

households, and an inventory of resources and constraints relevant to the meeting of these needs for each income category, including extremely low-income households. “Extremely low income households” means families and persons making 30% of the area median income (AMI) and below.

- 6) Requires the housing element to include an analysis of any special needs housing, including, among other things, families and persons in need of emergency shelter.
- 7) Requires the housing element to include the identification of zones that allow residential, including mixed uses, where emergency shelters and other interim interventions are allowed as a permitted use without a conditional use or other discretionary permit that are suitable for residential uses, as specified. Shelters and interim interventions may be subject to development and management standards that are objective and encourage and facilitate the development of, or conversion to, emergency shelters.

This bill:

- 1) Adds “homeless” to the list of housing income categories for purposes of the regional housing needs assessment.
- 2) Requires each COG, in its regional housing needs plan, to further a new objective, which is to fulfill the local governments obligation to provide housing fit for human habitation pursuant to the Homeless Housing Obligation Act.
- 3) Requires a regional housing needs plan to include an objective of fulfilling the local government’s obligation to provide housing fit for human habitation under the Homeless Housing Obligation Act.
- 4) Creates the Homeless Housing Obligation Act, which requires, on or after January 1, 2025, local governments to provide housing fit for habitation for homeless individuals within its jurisdiction, based on a jurisdiction specific point in time (PIT) count.
- 5) Requires each locality to develop a housing obligation plan to fulfill its housing obligation to be updated annually and posted to a web site. The housing obligation plan shall include, but not be limited to, the following:
 - a) Goals and plans to fulfill the local government’s obligation, including specific projects and completion timeline.

- b) Progress completed to date by the local government to reduce the number of homeless individuals in its jurisdiction.
 - c) Integration with the local government's regional housing needs allocation plan as described in (2) above.
- 6) Creates the Homeless Housing Obligation Fund (Fund) which shall be funded upon appropriation of the Legislature with an unspecified amount. The funds shall be awarded as grants by HCD for the purpose of fulfilling their homeless housing obligation.
- 7) Authorizes local governments to apply to HCD for a grant in the form and manner specified. The application shall include, but is not limited to, the following:
- a) A copy of the local government's most recent RHNA plan,
 - b) A copy of their PIT count,
 - c) A copy of the housing obligation plan.
- 8) Authorizes up to 5% of the money for administration purposes.
- 9) Requires funding for fulfilling the local governments homeless housing obligation shall be allocated to projects that provide housing to individuals who are currently experiencing homelessness, previously experienced homelessness, at-risk of homelessness, or extremely low-income. Fifty percent of the funds shall be reserved for individuals who are currently experiencing or previously experienced homelessness.
- 10) Authorizes HCD to adopt regulations to implement this chapter, but those regulations are exempted from the Administrative Procedures Act.

COMMENTS:

- 1) *Author's statement.* "One of the most clear bottlenecks along the existing continuum is the lack of nearly-free housing for someone in or exiting the shelter system who wants housing. This reality creates the revolving door of staying in a shelter, hospital, jail, family reunification and tent encampment only to return to street homelessness. The reality is that many people are simply not able to create an income that will allow them to afford housing in the private market. SB 7 addresses this problem by requiring HCD to create a fund to award to cities and counties that are fulfilling their housing obligations. The

funds will primarily be reserved for housing current homeless individuals, previously homeless individuals, or those at risk of homelessness.”

- 2) *Homelessness: Stats and Causes.* According to the most recent point in time (PIT) count, 171,521 people were experiencing homelessness in California—representing 30% of the nation’s homeless population. Two-thirds of the homeless population in California is unsheltered. Over half (51%) of all unsheltered people in the US were in California. California has the largest concentration of severely unaffordable housing markets in the nation and the statewide average home value reached a new record in June 2022 at \$793,300. Over three quarters (78%) of extremely low-income households in California are paying more than half of their income on housing costs compared to just 6% of moderate-income households.

A lack of affordable housing is the biggest contributor to homelessness. As housing costs continue to rise, rent becomes less affordable for lower-income households, who are forced to live beyond their means (paying more than 30% of income on housing costs) or are pushed out of their homes, leading to rapid increases in homelessness. Variation in rates of homelessness cannot be explained by variation in rates of individual factors such as poverty or mental illness, however, cities with higher rents and lower rental vacancy rates (*i.e.*, tighter housing markets) are directly linked to higher per capita rates of homelessness. Additionally, the data show that many people experiencing homelessness are employed; the problem is that their income alone often isn’t enough to maintain stable housing. This can result in financial insecurity, which is both a main cause and a prolonging factor of homelessness.

- 3) *Housing needs in California.* The lack of affordable housing plays a significant role in causing individuals to become homeless or creates obstacles for individuals experiencing homeless to transition into stable housing. The need for and costs of housing have consistently outpaced the development of affordable housing for over 30 years. As of 2022, working at the minimum wage of \$15/hour, a renter has to work 83 hours each week to afford a modest one-bedroom rental home at Fair Market Rent in California. The lack of supply is the primary factor underlying California’s housing crunch. To keep up with demand, HCD estimates that California must plan for the development of more than 2.5 million homes over the next eight years, and no less than one million of those homes must meet the needs of lower-income households (more than 640,000 very low-income and 385,000 low-income units are needed). For decades, not enough housing was constructed to meet need, resulting in a severe undersupply of housing. New construction of housing, both single family

homes and apartments, continues to lag behind historical averages, and lags further behind the number of new units needed to meet housing demand.

- 4) *Housing Elements and RHNA*. 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. These five- and eight-year periods are known as the housing element planning period.

Before each 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. In the first step, HCD determines the aggregate housing need for the region during the planning period the housing element will cover. In the second step, the COG for the region allocates the regional housing need to each city and county within the region. The COG must come up with a regional housing needs plan, to further specific objectives such as affirmatively furthering fair housing, ensuring a mix of housing equitably throughout the region, and promoting a jobs and housing balance.

This bill would add to the objectives included in the regional housing needs plan, to fulfill the local governments obligation to provide housing fit for human habitation pursuant to the Homeless Housing Obligation Act. *Given that this exercise is about allocations within the region, moving forward the author may wish to remove this provision from the bill and instead focus on the inclusion of additional homelessness analyses elsewhere in the housing element.*

- 5) *Homelessness analyses in housing element law*. In general, a housing element must identify and analyze existing and projected 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. As part of the process to identify adequate sites, a city or county first prepares an inventory of existing sites zoned for housing. It must also determine what portion of the jurisdiction's very low-income need comprises the needs of extremely low-income households. In assessing the need for extremely low-income housing (ELI), the locality may

either conduct an independent analysis or assume that the need is 50% of the regional need allocation for very low-income (VLI) housing.

- 6) *Mullin densities and a new income category.* A local government must determine whether each site in its site inventory for its housing element can accommodate some portion of the jurisdiction's share of the regional housing needs assessment requirement by income category during the housing element planning period. A community must use the "default zoning densities," also referred to as "Mullin densities," to determine whether a site is adequately zoned for lower income housing or must provide an alternative analysis. Current default densities are as follows:
- a) 15 units per acre: cities within non-metropolitan counties; non-metropolitan counties with metropolitan areas.
 - b) 10 units per acre: unincorporated areas in all nonmetropolitan counties not included in the 15 units per acre category.
 - c) 20 units per acre: suburban jurisdictions.
 - d) 30 units per acre: jurisdictions in metropolitan counties.

This bill adds "homeless" as an income category to the housing element. As noted above, ELI is often half of the VLI category. It is not clear how this would be implemented; as noted in Comment 2, many individuals and families experiencing homelessness are working, they just lack sufficient income to pay for affordable housing. Practically speaking, however, the committee estimates it would likely be treated similarly to how ELI categories are treated (*i.e.*, homeless populations would require an independent analysis or assume half of the ELI category). *Moving forward the author may wish to remove this provision.*

- 7) *Homelessness analyses in the housing element.* An analysis of the homeless and unhoused population is essential to determining the need for emergency shelters and transitional housing. This analysis should include estimates of numbers and types of households (*e.g.*, single men, single women, families, and persons with disabilities, including people with impairments related to substance abuse), a description of needs, resources available to meet those needs and a description of program or policy options for addressing the need. According to HCD guidance, it should also include an estimate of units/beds/vouchers currently available to assist this population. The emergency shelter need must be based on both annual and seasonal need to ensure that communities provide for sufficient shelter during periods of cold and inclement weather.

The author may wish to, moving forward, consider tying the homelessness obligation in the HHAO, detailed below, to the data collected in the homelessness analysis already required in the housing element to inform necessary housing gaps in existing housing programs.

- 8) *Homelessness funding generally.* Traditionally, homelessness responses in California were considered the responsibility of the federal and local governments (*i.e.*, cities, counties, and CoCs). This included financing, land use policies, tenant protections, physical and behavioral health services, social services, and more. Within the past decade, the State began playing a more active role in the homelessness response—investing more heavily in prevention and response programs, streamlining the production of affordable housing and high-quality and low barrier navigation centers, and coordinating across sectors. California provides loans and grants to local and regional housing trust funds dedicated to the creation, rehabilitation, or preservation of affordable housing, interim housing, and emergency shelters. The State also has several longstanding homeless assistance programs that have been updated, expanded, and streamlined over the past decade or longer—many of which receive funds or supplement with funds from the federal government. Between Fiscal Years 2018–19 and 2020–21, California increased its investment in homelessness-focused programs by more than \$1.5 billion; between Fiscal Years 2018–19 and 2020–21, the state directed \$9.6 billion in homelessness-focused programs. The state did so by funding, administering, and/or implementing 35 programs administered by nine state agencies and departments aimed at expanding access to housing, health, and social services for people experiencing or at risk of homelessness. Only three housing programs are funded on a permanent, ongoing basis, however. This includes the California low income housing tax credit (LIHTC) program, the Affordable Housing and Sustainable Communities Program (AHSC), and the Permanent Local Housing Allocation program (funded by SB 2 (Atkins, Chapter 364, Statutes of 2017).
- 9) *Existing state homelessness programs for locals.* In 2017, the Legislature passed the Building Homes and Jobs Act (SB 2, Atkins, Chapter 364) establishing a permanent source of funding for the construction of affordable housing, homebuyer assistance, support for local planning documents, and housing for the homeless. Seventy percent of the funds are administered to local governments that submit a basic plan for the use of the funds and must provide updates and outcomes, as specified, on the use of the funds.

In 2018, the state created the Homeless Emergency Aid Program (HEAP), which provided flexible, block grant funding to CoCs and large cities with a shelter crisis declaration for emergency assistance (*e.g.*, homelessness

prevention, criminal justice diversion, at-risk youth services, emergency aid, etc.) to people experiencing or at-risk of homelessness. In 2019, HEAP was replaced with the Homeless Housing, Assistance, and Prevention (HHAP) Grant Program, which provided funding to CoCs, counties, and large cities with a set aside for tribal communities. HHAP funds support regional coordination and expand or develop local capacity to address their immediate homelessness challenges. HHAPP recipients, beginning in Round 3, are required as part of their application for funds, to submit a local homeless action plan, which includes specified outcome goals aimed at preventing and reducing homelessness over a three year period. Applicants are required to engage with the California Interagency Council on Homelessness, which administers the program, and encouraged to coordinate plans on a regional basis.

- 10) *New homeless housing mandates and funds for locals.* This bill would create the HHOA, which would require local governments to provide housing fit for human habitation for homeless individuals based on an annual PIT count. Each local government shall develop a housing obligation plan to develop the homeless housing, which shall include specific goals and progress towards meeting those goals. To pay for the housing for those experiencing homelessness, locals can apply to HCD for a new grant program, subject to appropriation with an unspecified amount. The bill does not specify eligible uses of the funds. **Given that people at-risk of experiencing homelessness may require varying level of housing supports, the author has agreed to amend the bill to specify the following eligible uses for this fund: rapid rehousing, including rental subsidies and incentives to landlords, such as security deposits and holding fees; operating subsidies in new and existing affordable or supportive housing units; delivery of permanent housing and innovative housing solutions, such as hotel and motel conversions; and prevention and diversion to permanent housing, including rental subsidies, particularly from state-funded and county-run institutional situations.** Additionally, the bill does not authorize non-profits to apply for state funds. **The author has agreed to include them as eligible applicants.**

PIT counts are unduplicated one-night estimates of both sheltered and unsheltered homeless populations. The one-night counts are conducted by continuums of care (COCs) nationwide and occur during the last week in January of each year and reported to the US Department of Housing and Urban Development (HUD). The information gathered during the PIT counts is the main source of data used by the federal government to track the number, demographics and needs of people experiencing homelessness throughout the country over time. **Given that COCs are already doing this data collection**

already, the author has agreed to instead base the housing obligation plan on the COC PIT count.

As noted in Comment 5 above, there are already several layers of funding programs for housing and services available for people experiencing homelessness. *Moving forward, the author may wish to add to the housing obligation plan an analysis of all the existing resources available for housing assistance for the homeless and how HHOA funds will be used to fill those gaps. This analysis could review all existing federal, state and local funds and populations served by those programs. These analyses could also have specific goals of moving people to permanent housing solutions and the analyses should track progress towards meeting those goals through program exits, among other things.* This analysis would build upon the homelessness analysis already required in the housing element, as well as analyses already required as part of the HHAPP program.

- 11) *A right to housing?* The bill requires locals to provide housing for the entire homeless population, and creates a funding program to finance that housing. What is not clear, however, is at what point locals need to have provided that housing, what agency is monitoring progress towards that goal or deviation from that goal, and whether there are consequences for not meeting that goal. The bill also does not provide an amount that will be allocated to this new fund, which presumably will require significant investments. *Moving forward, the author may wish to consider providing additional clarity about roles and obligations.*
- 12) *Committee amendments.* **Due to time constraints, should this bill pass out of this committee, amendments agreed to by the author as outlined in Comment 10 will be taken in the next committee as author amendments.**
- 13) *Double referral.* This bill was substantially amended on April 10th. This bill will be referred back to Rules for possible referral to a second committee.

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

POSITIONS: (Communicated to the committee before noon on Wednesday, April 12, 2023.)

SUPPORT:

Inner City Law Center (Sponsor)

OPPOSITION:

None received

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