

Date of Hearing: April 17, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2597 (Ward) – As Amended April 1, 2024

SUBJECT: Planning and zoning: revision of housing element: Southern California Association of Governments

SUMMARY: Revises the housing element statutory adoption deadlines for the seventh and subsequent housing element cycles for local governments within the regional jurisdiction of the Southern California Association of Governments (SCAG), except for the County of Los Angeles and all local governments within the County of Los Angeles. **Specifically, this bill** provides that local governments, as specified, that are within the regional jurisdiction of SCAG and that have a compliant housing element as of the adoption of the second regional transportation plan (RTP) update, as specified, excluding the County of Los Angeles and all local governments within the County of Los Angeles, must adopt a housing element 30 months after the adoption of every second RTP update for the seventh revision and subsequent revisions of the housing element, or as otherwise provided in law.

EXISTING LAW:

- 1) 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, including a quantification of the locality's existing and projected housing needs for all income levels; an inventory of land suitable and available for residential development; an analysis of potential and actual governmental and nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels; and a demonstration of local efforts to remove constraints that hinder the locality from meeting its share of the regional housing need, among other things;
 - 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, including actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the local government's share of the regional housing need for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. [Government Code (GOV) § 65583(a)-(c)]

- 2) Requires each city, county, city and county to revise its housing element according to the following due dates:
 - a) For local governments described in specified law, 18 months after adoption of every second RTP update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element, or as otherwise provided in law;
 - b) For all other local governments, at five-year intervals after dates in specified law; and
 - c) If a metropolitan planning organization (MPO) or a regional transportation planning agency subject to the five-year revision interval in b) elects to adopt a RTP not less than every four years under specified law after June 1, 2009, all local governments within the regional jurisdiction of that entity must adopt the next housing element revision no later than 18 months after adoption of the first RTP plan update following the election. Subsequent revisions must be due 18 months after adoption of every second RTP update, provided that the deadline for adoption is no more than eight years later than the deadline for adoption of the previous eight-year housing element. (GOV § 65588 (e)(3)(A)-(C))
- 3) Requires the MPO or a regional transportation planning agency for a region that has an eight-year revision interval pursuant to 2)a) to notify the Department of Housing and Community Development (HCD) and the Department of Transportation (Caltrans) in writing of the estimated adoption date for its next RTP update at least 12 months before the estimated adoption date. (GOV § 65588(e)(5))
- 4) Requires Caltrans to maintain and publish on its website a current schedule of the estimated RTP adoption dates, and requires HCD to maintain and publish on its website a current schedule of estimated and actual housing element due dates. (GOV § 65588(e)(5))
- 5) Requires each council of governments (COG) to publish on its website the estimated and actual housing element due dates, as published by HCD, for the jurisdictions within its region and to send a notice of these dates to interested parties. (GOV § 65588(e)(5))
- 6) Provides that, for purposes of the regional housing need determination, as specified, the date of the next scheduled revision of the housing element is deemed to be the estimated adoption date of the RTP update described in the notice provided to Caltrans plus 18 months. (GOV § 65588(e)(5))
- 7) Requires HCD to determine the existing and projected housing need for each region at least two years prior to the scheduled revision of the housing element in 2) above, and requires the appropriate COG, or HCD for cities and counties without a COG, to adopt a final regional housing needs plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region in 2) above. (GOV § 65584(b))
- 8) Requires HCD, at least 26 months prior to the scheduled revision of the housing element in 2) above 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 region's housing needs, as specified. (GOV § 65584.01(b)(1))

- 9) Requires each COG or delegate subregion, at least two years before a scheduled revision of the housing element in 2), to develop, in consultation with HCD, a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or subregion. (GOV § 65584.04(a))
- 10) Requires each COG and delegate subregion, at least one and one-half years before the scheduled revision of the housing element in 2) above, to distribute a draft allocation of regional housing needs to each local government in the region or subregion and HCD, and publish the draft allocation on its website. (GC 65584.05(a))
- 11) Requires a local government, at least 90 days prior to the adoption of a revision of its housing element pursuant to 2) above, or at least 60 days prior to the adoption of a subsequent amendment to the housing element, to submit a draft element to HCD. HCD must review the draft and report its written findings within 90 days of its receipt of the first draft submittal or within 60 days of its receipt of a subsequent draft, unless certain conditions are met. (GOV § 65585 (b)(1)-(3))
- 12) Requires HCD, in its written findings pursuant to 11), to determine whether the draft element or amendment substantially complies with housing element law. (GOV § 65585(d))
- 13) Requires HCD to review adopted housing elements or amendments and report its findings to the local government within 60 days of adoption. (GOV § 65585(h))

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary:** AB 2597 separates out Los Angeles County and the 88 cities within Los Angeles County from the rest of SCAG for the purposes of HCD’s review of the housing element for the 7th cycle RHNA and all future cycles. The cities within the County of Los Angeles would remain on the current 18-month adoption period (effectively one year after RHNA suballocations are assigned). The cities and counties in SCAG not captured by Los Angeles County have 30 months after the second RTP (or effectively two years after RHNA suballocations are assigned) to adopt a compliant housing element
- 2) **Author’s Statement.** According to the author, “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.”
- 3) **California’s Housing Crisis:** California is in the midst of a severe housing crisis. Over two-thirds of low-income renters are paying more than 30% of their income toward housing, a “rent burden” that means they have to sacrifice other essentials such as food, transportation, and health care. In 2023, over 181,000 Californians experienced homelessness on a given night, with a sharp increase in the number of people who became homeless for the first time.

The crisis is driven in large part by the lack of affordable rental housing for lower income people. According to the California Housing Partnership's (CHP) Housing Need Dashboard, in the current market, nearly 2 million extremely low-income and very low-income renter households are competing for roughly 687,000 available and affordable rental units in the state. Over three-quarters of the state's extremely low-income households and over half of the state's very low-income households are severely rent burdened, paying more than 50% of their income toward rent each month. CHP estimates that the state needs an additional 1.3 million housing units affordable to very low-income Californians to eliminate the shortfall. By contrast, production in the past decade has been under 100,000 housing units per year – including less than 10,000 units of affordable housing per year.

- 4) 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. Localities that do not adopt a compliant housing element within 120 days from their statutory deadline also must complete any rezones within one year of their deadline, rather than the three years afforded to on-time adopters.

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 and population projections. 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.

- 5) **SCAG in Relation to Other COGs:** Housing element adoption is staggered across the state depending on certain timelines for different COGs. SCAG is by far the largest COG in the state, encompassing six counties – Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura – and 191 cities in an area covering more than 38,000 square miles. These 197 jurisdictions all must adopt a legally compliant housing element based on the timelines outlined in current law, meaning all jurisdictions in SCAG have the same housing element due date – 18 months after the adoption of a second RTP update for the planning period, which HCD estimates for the seventh cycle housing element will be October 15, 2029.

HCD must review a first draft housing element from every single jurisdiction in the state, and provide written findings of its feedback on whether the draft plan complies with a comprehensive list of requirements in housing element law. HCD has 90 days to review first drafts, and often second or subsequent drafts are necessary to make changes or rewrite portions of some elements. HCD has 60 days to review those subsequent drafts and provide additional feedback. With 197 jurisdictions all aiming to submit draft housing elements roughly 90 days prior to the same due date, this represents a tremendous workload “spike” for HCD to timely review and deliver written feedback by its own 90-day deadlines and may affect the quality of feedback able to be provided. Additionally, there are many members of the public and stakeholder groups with an interest in reviewing draft housing elements and the same time crunch negatively affects their ability to thoroughly review these lengthy documents and generate comments and suggestions for local governments to consider. Jurisdictions waiting for feedback from HCD might receive more individualized technical assistance and deeper feedback on their drafts if this workload were more evenly distributed, which could potentially also reduce the need for multiple subsequent draft housing elements.

This bill intends to spread out this workload spike by creating two phases of housing element adoption due dates for SCAG jurisdictions in future cycles: Los Angeles County and jurisdictions within Los Angeles County would remain on the current 18-month adoption period (effectively one year after RHNA suballocations are assigned), while all other jurisdictions in SCAG would have 30 months after the second RTP (or effectively two years after RHNA suballocations are assigned) to adopt a compliant housing element. Any jurisdictions outside of Los Angeles County that do not have a compliant housing element as of the adoption of the second RTP would not be able to take advantage of this longer drafting and preparation window, and would instead remain on the 18-month cycle.

Los Angeles County contains 88 incorporated cities and is the most populated county both in California and in the entire United States. These 88 cities plus Los Angeles County itself represent about 45% of the total number of jurisdictions within SCAG. In addition, the City of Los Angeles is the most populated city in the state and has a commensurately large and complex housing element. Splitting SCAG into these two phases is thus intended to more evenly distribute housing element workload.

- 6) **Arguments in Support.** None on file.
- 7) **Argument in Opposition.** None on file.

8) Double-Referral. This bill is double-referred to the Assembly Housing and Community Development Committee, where it passed on a 9-0 vote on April 10, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File.

Opposition

None on File.

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