Date of Hearing: April 24, 2024

<div align="center">

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
AB 2485 (Juan Carrillo) – As Amended March 19, 2024

</div>

SUBJECT: Regional housing need: determination

SUMMARY: Requires the Department of Housing and Community Development (HCD) to consult with an advisory panel of experts and publish methodologies used while determining the existing and projected housing need for each region through the regional housing needs determination (RHND) process. Specifically, **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 Department of Finance (DOF) projections and engagement process with the council of governments (COG), 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.

EXISTING LAW:

1) Provides that each community's fair share of housing be determined through the regional housing needs determination and allocation (RHND/RHNA) process. Sets out the process as follows: (a) DOF and HCD develop regional housing needs estimates; (b) COGs allocate housing within each region based on these determinations, and where a COG does not exist, HCD conducts the allocations; and (c) cities and counties incorporate these allocations into their housing elements. [Government Code (GOV) §§ 65584-65584.01]

2) Requires HCD, in consultation with each COG, to determine the RHND for each region using population projections produced by DOF and regional population forecasts used in preparing regional transportation plans (RTP), in consultation with each COG. If the total regional population forecast for the projection year developed by the COG and used in the RTP is within a range of 1.5% of DOF's projection, then the COG's forecast must be used for the RHND. If the difference between the COG and DOF's projection is greater than 1.5%, then HCD and the COG must meet to discuss variances in methodology used for the projections and seek agreement on a projection for the region to be used for the RHND. If

agreement is not reached, then DOF's projection must be used, and may be modified by HCD as a result of discussions with the COG. [GOV § 65584.01(a)]

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, if available, the following data for the region:

   a) Anticipated household growth associated with projected population increases;

   b) Household size data and trends in household size;

   c) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;

   d) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;

   e) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;

   f) Other characteristics of the composition of the projected population;

   g) The relationship between jobs and housing, including any imbalance between jobs and housing;

   h) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and

   i) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request. [GOV § 65584.01(b)(1)]

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. [GOV § 65584.01(b)(2)]

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. [GOV § 65584.01(b)(2)]

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. [GOV § 65584.01(c)(1)]

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, 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 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)]

9) 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 RHNA for each income level that could not be accommodated on sites identified in the sites inventory without rezoning, among other things. [GOV § 65583(a)-(c)]

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

1) **Bill Summary.** This bill requires HCD to take certain actions in determining the existing and projected housing need for each region through the RHND process to ensure transparency and accuracy in RHNA calculations and allocations, as follows:

   a) **Advisory Panel of Experts.** Currently, HCD is required to meet with COGs during the RHNA calculation process to discuss methodologies and data sets being used through a flexible and undefined consultation process. This bill would require HCD to further convene with an advisory panel of experts implemented within the existing consultation timeline to promote accuracy in the data assumption and calculation process. The panel would include a United States Census Bureau-affiliated practitioner, an expert on specified data, and a representative from the

COG. Additionally, this panel would be purely advisory and hold no authority to make an executive decision whatsoever.

b) **Website Publishing.** After HCD consults with the advisory panel of experts, it will be required to publish the data sources, analyses, and methodologies that they will use in determining the RHND prior to finalizing the amount. HCD will also need to include specified assumptions and factors used in and applied to the DOF projections and the engagement process with the COGs and advisory panel of experts.

This bill is sponsored by the Southern California Association of Governments (SCAG).

2) **Author's Statement.** According to the author, "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."

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.

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.

5) **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 via 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 Department of Finance 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 it will use to produce the RHND. The COG provides HCD with its own regional data on several criteria, including:

   a) Anticipated household growth associated with projected population increases;

   b) Household size data and trends in household size;

   c) The percentage of households that are overcrowded, as defined, and the overcrowding rate for a comparable housing market, as defined;

   d) The rate of house formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures;

   e) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs, as specified;

   f) Other characteristics of the composition of the projected population;

   g) The relationship between jobs and housing, including any imbalance between jobs and housing;

h) The percentage of households that are cost burdened and the rate of housing cost burden for a healthy housing market, as defined; and

i) The loss of units during a declared state of emergency during the planning period immediately preceding the relevant housing element cycle that have yet to be rebuilt or replaced at the time of the data request.

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. The RHNA methodology is statutorily obligated to further all of the following objectives:

a) Increase the housing supply and mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which must result in each jurisdiction receiving an allocation of units for low- and very low-income households;

b) Promote infill development, socioeconomic equity, the protection of environmental and agricultural resources, and achievement of regional climate change reduction targets;

c) Promote and improve 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) Allocate 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; and

e) Affirmatively further fair housing.

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.

6) **2022 RHNA Audit.** In a March 2022 letter to the Legislature, the California State Auditor wrote:

"As directed by the Joint Legislative Audit Committee, my office evaluated the Regional Housing Needs Assessment (needs assessment) process that the Department of Housing and Community Development (HCD) uses to provide key housing guidance for the State's

local governments. The availability of sufficient housing is of vital statewide importance, and HCD's needs assessments are what allow jurisdictions to plan for the development of that housing. Overall, our audit determined that HCD does not ensure that its needs assessments are accurate and adequately supported.

"In reviewing the needs assessments for three regions, we identified multiple areas in which HCD must improve its process. For example, HCD does not satisfactorily review its needs assessments to ensure that staff accurately enter data when they calculate how much housing local governments must plan to build. As a result, HCD made errors that reduced its projected need for housing in two of the regions we reviewed. We also found that HCD could not demonstrate that it adequately considered all of the factors that state law requires, and it could not support its use of healthy housing vacancy rates. This insufficient oversight and lack of support for its considerations risks eroding public confidence that HCD is informing local governments of the appropriate amount of housing they will need.

"HCD's needs assessments also rely on some projections that the Department of Finance (Finance) provides. While we found that most of Finance's projections were reasonably accurate, it has not adequately supported the rates it uses to project the number of future households that will require housing units in the State. Although these household projections are a key component in HCD's needs assessments, Finance has not conducted a proper study or obtained formal recommendations from experts it consulted to support its assumptions in this area. Finance intends to reevaluate its assumptions related to household growth as more detailed 2020 Census data becomes available later in the year, but without such efforts, Finance cannot ensure that it is providing the most appropriate information to HCD."

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

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

7) **Arguments in Support.** The Southern California Association of Governments (SCAG), sponsor of this bill, states, "Given the importance of the RHNA program to alleviate the state's housing crisis, accompanied by the sheer magnitude of needed housing compared to what has been built in the past, there is a severe risk to the credibility of the process if it is insufficiently transparent, credible, and robust. AB 2485 would mitigate such risks by improving the development of the RHNA determination and ensuring its accuracy and transparency in two pivotal ways. First, AB 2485 would establish procedures for HCD to publicize its data sources, analyses, and methodology before finalizing a region's regional determination. Second, AB 2485 requires HCD to establish and convene a panel of experts to advise the department on its assumptions, data, and analyses before making its final determination on a region.

"If a local Housing Element is based on an inaccurate RHNA determination, that could directly translate to housing units that are unaccounted for and thus remain unbuilt. This is made even more critical given that RHNA accounts for future growth as well as current needs. In a March 2022 letter to the Legislature, the California State Auditor found that two of the three COG regions it studied had received underassessed housing needs. Therefore, it is imperative that the determinations provided to each region and the housing allocation provided to each jurisdiction be as accurate as possible while ensuring that the communities using these numbers are confident in that accuracy."

8) **Arguments in Opposition.** None on file.

9) **Related Legislation.** AB 2361 (Davies) would reauthorize localities in the counties of Orange and San Diego to trade or transfer their RHNA in exchange for financial compensation. This bill is currently pending in the Assembly Committee on Housing and Community Development.

AB 2597 (Ward) would modify future housing element due dates for the Southern California Association of Governments by creating two split phases of adoption due dates. This bill passed out of the Assembly Committee on Housing and Community Development on a 9-0 vote and recently passed out of the Assembly Committee on Local Government on a 9-0 vote. This bill is currently pending on the Assembly Floor.

10) **Previous Legislation.** 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.

11) **Double Referral.** This bill was double-referred to the Assembly Housing Committee where it passed on a 9-0 vote on April 17, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Southern California Association of Governments (SPONSOR)
California Association of Councils of Governments
City of Chino Hills

City of Lomita
City of Monrovia
City of Palm Desert
City of Thousand Oaks
Livable California
San Gabriel Valley Council of Governments

Opposition

None on file.

Analysis Prepared by: Claire Norton / L. GOV. / (916) 319-3958