

Date of Hearing: April 24, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2580 (Wicks) – As Amended April 15, 2024

SUBJECT: Historical resources

SUMMARY: Requires a local government to include information about a local government's historic preservation practice and policies to the constraint analysis required by housing element law. **Specifically, this bill:**

- 1) Requires a local government's planning agency to include in its Annual Progress Report (APR) a list of all historic designations listed on the National Register of Historic Places, the California Register of Historic Resources, or a local register of historic places by the city or county in the past year, and the status of any housing development projects proposed for the new historic designations, including all of the following:
 - a) Whether the housing development project has been entitled.
 - b) Whether a building permit has been issued for the housing development project.
 - c) The number of units in the housing development project.
- 2) Requires a local government to include an assessment of how existing and proposed historic designations affect the locality's ability to meet its share of the housing need in its site inventory.
- 3) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the bill.

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 a local government's inventory of land suitable for residential development to be used to identify sites throughout the community that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels. Defines "land suitable for residential development" to include:
 - a) Vacant sites zoned for residential use;
 - b) Vacant sites zoned for nonresidential use that allows residential development;
 - c) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a jurisdiction; and
 - d) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary and as specified. (GOV § 65583.2(a))
- 3) Requires a planning agency to provide an APR to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development (HCD) by April 1 of each year that includes certain information, including:
 - a) The progress in meeting its share of the regional housing needs, including the need for extremely low-income households, and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing included in the housing element;
 - b) The number of housing development applications received in the prior year, including whether each housing development application is subject to a ministerial or discretionary approval process;
 - c) The number of units included in all development applications in the prior year;
 - d) The number of units approved and disapproved in the prior year;
 - e) A listing of sites rezoned to accommodate that portion of the city or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the housing element's site inventory and any sites that may have been required to be identified under the No Net Loss Zoning law;
 - f) The number of housing units demolished and new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category by area median income that each housing unit satisfies;

- g) Specified information related to density bonus applications; and
- h) Specified information related to Affordable Housing and High Road Jobs Act of 2022 applications. (GOV § 65400(a)(2)(A)-(M))

FISCAL EFFECT: This bill is keyed fiscal and contains a state-mandate local program.

COMMENTS:

- 1) **Bill Summary.** AB 2580 adds information about a local government’s historic preservation practices and policies to the constraints analysis required by housing element law. This bill requires a local government to provide a list of all historic designations listed on specified registers of historic places in the past year, including an assessment of how those designations affect the ability of the local government to meet its housing needs, on the Annual Progress Report.

This bill is sponsored by California YIMBY.

- 2) **Author’s Statement.** According to the author, “AB 2580 enhances the transparency of the interaction between historic preservation and housing policy. It does so by requiring historic preservation policies and practices to be evaluated as potential constraints on housing in the Housing Element process, and ensures that cities disclose to HCD any newly adopted historical designations. By increasing this transparency, AB 2580 can help balance development of critically-needed housing production with protecting valuable historic resources.”
- 3) **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 an accelerated deadline for completing rezoning, exposure to the “builder’s remedy,” 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). To do so, each community establishes an inventory of sites designated for new housing that is sufficient to accommodate its fair share. Where a community does not already contain the existing capacity to accommodate its fair share of housing, it must undertake a rezoning program to accommodate the housing planned for in the housing element. Depending on whether the jurisdiction met its statutory deadline for housing element adoption, it will have either one year (if it failed to meet the deadline) or three years (if it met the deadline) from its adoption deadline to complete that rezoning program.

It is critical that local jurisdictions adopt legally compliant housing elements on time in order to meet statewide housing goals and create the environment locally 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 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 that it not engage in exclusionary zoning practices.

One necessary component of the housing element is an assessment of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvement, fees and other exactions required of developers, local processing and permit procedures, and any locally adopted ordinances that directly impact the cost and supply of residential development. This analysis must also demonstrate local efforts to remove governmental constraints that hinder the development of housing at the income levels required by the RHNA process, as well as housing for people experiencing homelessness.

- 4) **Annual Progress Reports.** Current law requires all local jurisdictions to provide housing information annually to HCD via the APR, including the following information from the prior year and/or for the current eight-year housing element cycle:
- a) The number of housing development applications received, and whether those applications are subject to ministerial or discretionary approval;
 - b) The number of units included in all development applications;
 - c) The number of units approved and disapproved;
 - d) For each income category, the number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy;
 - e) A unique site identifier (such as assessor's parcel number) for each entitlement, building permit, or certificate of occupancy;
 - f) The number of applications submitted under the Affordable Housing and High Road Jobs Act of 2022; and
 - g) The overall progress in meeting its share of RHNA.

The APR also includes a housing element portion, which local governments must use to describe their progress in meeting their RHNA, local efforts to remove governmental constraints identified in their housing element, and actions taken toward completion of their housing element programs and the status of their compliance with the deadlines imposed in the housing element.

- 5) **Related Legislation.**
- a) AB 2728 (Gabriel) of the current legislative session would make changes to housing element and APR requirements related to the production of housing under the Affordable Housing on Faith and Higher Education Lands Act of 2023. This bill recently passed out of the Housing and Community Development Committee on a 9-0 vote and is pending before this committee.

- b) AB 2144 (Grayson) of the current legislative session adds evidence of compliance with existing law requirements for local governments to post fee schedules and other information on their websites to the list of information local governments must provide in their APR. This bill in the Appropriations Committee.
- c) AB 2667 (Santiago) of the current legislative session would require the APR to include the number of housing units approved and disapproved in the prior year that are located within an opportunity zone, among other changes. This bill recently passed out of the Housing and Community Development Committee on a 7-2 vote and is pending before this committee.
- 6) **Arguments in Support.** According to California YIMBY, the bill’s sponsor, “Historic preservation plays a vital role in protecting California's architectural heritage and conserving places of historical significance. Historic districts and buildings designated as ‘historically significant’ receive special protections that subject new developments, building renovations, and design changes to a more rigorous and thorough review process to protect the integrity of historic elements.
- “However, the ability to designate a building as ‘historically significant’ or creating a new historic district often encourages abuse by individuals and small local groups who seek to prevent more inclusive and affordable housing development. There are also currently no measures in place to ensure local governments balance legitimate historic preservation with potential impacts on a community's ability to meet its housing needs.
- “AB 2580 would require local jurisdictions to monitor how new historic designations could impact their ability to meet housing needs under existing state law and report new historic buildings and districts to the Department of Housing and Community Development (HCD) during the Annual Progress Report of the Regional Housing Needs Assessment process.”
- 7) **Arguments in Opposition.** None on file.
- 8) **Double-Referral.** This bill was double-referred to the Assembly Housing and Community Development Committee, where it passed on 8-0-1 vote on April 10, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

California YIMBY [Sponsor]
 Abundant Housing LA
 California Community Builders
 Circulate San Diego
 House Sacramento
 Housing Action Coalition
 John Ebnetter, Planning Commissioner, City of San Mateo
 Mountain View Yimby
 Noelia Corzo, San Mateo County Supervisor (district 2)
 One San Mateo
 San Francisco Bay Area Planning and Urban Research Association (SPUR)
 San Mateo City Council Member Amourence Lee

San Mateo City Council Member Rick Bonilla
Seema Patel, Planning Commissioner, City of San Mateo
Supervisor Warren Slocum
Uma Krishnan, President, San Mateo County Asian American Pacific Islander Alliance
Yimby Action

Opposition

None on file.

Analysis Prepared by: Linda Rios / L. GOV. / (916) 319-3958