

Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 906 (Mark González) – As Amended April 21, 2025

**SUBJECT:** Planning and zoning: housing elements: affirmatively furthering fair housing

**SUMMARY:** Revises a number of components relating to the obligation for local governments to affirmatively further fair housing (AFFH) in housing elements. Specifically, **this bill:**

- 1) Strikes provisions in existing Housing Element Law requiring an analysis of the relationship of the sites identified in the land inventory to the jurisdiction's duty to affirmatively further fair housing.
- 2) Requires the program that sets forth a schedule of action during the planning periods, each with a timeline for implementation, that a local government undertakes to implement the policies and achieves the goals of the housing element to do all of the following:
  - a) Ensures that the distribution of sites across the jurisdiction affirmatively furthers fair housing, as specified. Requires sites to be designated to accommodate the city's or county's share of the regional housing need at all income levels after any required rezoning affirmatively furthers fair housing, as specified.
  - b) Applies deadlines in existing law when the inventory of sites, as specified, does not include, instead of "identify" in existing law, adequate sites to accommodate the need for groups of all household income level, as specified, or where sites identified do not affirmatively further fair housing, as specified.
  - c) Requires the program to identify sites that can be developed for housing within the planning period, as specified, when the inventory of sites does not include, instead of "identify", adequate sites to accommodate the need for all household income levels or where the sites identified do not affirmatively further fair housing. Requires the jurisdiction to demonstrate that sites identified to accommodate the city's or county's share of the regional housing need at all income levels after required rezoning, as specified, will affirmatively further fair housing.
  - d) Requires the program to provide for sufficient sites to meet the need for farmworker housing when the inventory of sites do not include, instead of identify, adequate sites to accommodate the need for farmworker housing.
- 3) Strikes existing law that provides how an assessment of fair housing in the jurisdiction will be conducted and reported to HCD. Moves revises existing law to a new section of law created by this bill and is described in 4) below.
- 4) Requires that, in addition to existing law defining affirmatively furthering fair housing and the responsibilities of public agencies in administering programs and activities relating to housing development, the program shall meet all of the following requirements:

- a) At least one year prior to the adoption deadline for the next revision of the housing element, the city or county shall complete and make publicly available an assessment that includes both of the following:
  - i) An analysis of available federal, state, and local data and knowledge to identify and examine all of the following:
    - I) Integration and segregation patterns and trends.
    - II) Racially or ethnically concentrated areas of poverty and affluence.
    - III) Disparities in access to opportunity for members of protected classes, including, but not limited to, access to educational, employment, and transportation opportunities, and access to a healthy environment.
    - IV) Disparities in availability and quality of amenities and services for members of protected classes, including infrastructure, parks, maintenance and sanitation services, health services, grocery stores, and financial institutions.
    - V) Disproportionate housing needs of members of protected classes, including, but not limited to, displacement risk, evictions, cost burden, overcrowding, substandard housing, homelessness, risk related to climate disasters, and expiring covenants resulting in loss of affordable housing.
    - VI) Investment and disinvestment patterns and trends.
    - VII) The analysis shall be prepared after the jurisdiction conducts meaningful consultation, as specified, with members of protected classes and organizations representing their interests and shall identify and examine those patterns, trends, areas, disparities, and needs both within the jurisdiction and comparing the jurisdiction to the region in which it is located, based on race and other characteristics protected by existing fair housing law, as specified. The jurisdiction shall include in any drafts of the housing element and the final adopted housing element a description of its outreach, a summary of comments received, and an explanation of how the comments were considered and incorporated or why they were rejected.
  - ii) A summary of fair housing issues in the jurisdiction and an assessment of the contributing factors, including the local and regional historical origins and current policies and practices, that created and maintain the fair housing issues identified.
- b) Requires a city or county to solicit public comments on the assessment and seek input on, including through meaningful consultation with members of protected classes and organizations that represent their interests, the information required pursuant to i) and ii) of c) after completing the assessment described in a) above.
- c) Requires a city or county to include in the first draft revision of the housing element available for public comment, as specified, in both of the following:

- i) The assessment described in a) above, including any revisions made in response to comments pursuant to b) above.
- ii) Based on the assessment and any input received pursuant to the meaningful consultation required pursuant to subdivision (b), all of the following:
  - I) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to addressing those issues and factors identified in a) i) of 4) that have been identified as priorities by members of protected classes and organizations representing their interests or are identified as issues that limit access for members of protected classes to higher income areas, limit access to opportunity, contribute to lack of investment in historically disadvantaged neighborhoods, or cause displacement of protected classes.
  - II) An identification of the neighborhoods most in need of investment and the types of investment required to meet the needs of members of protected classes without causing displacement of protected classes.
  - III) Strategies and actions to implement the priorities and goals identified in I), including those that would make necessary investments in the areas identified in II) and those that would expand housing choice for members of protected classes. Jurisdictions shall consider strategies that include, but are not limited to, all of the following:
    - a) Strategies to enable members of protected classes to live in the neighborhood of their choice.
    - b) Strategies to encourage development of new affordable housing in both higher income neighborhoods and historically disinvested neighborhoods.
    - c) Strategies to encourage community revitalization in historically disinvested neighborhoods, including preservation of existing affordable housing, infrastructure, and other investments that enhance opportunity, remediation of environmental justice issues, and policies that protect existing residents and community-serving small businesses from displacement.
  - IV) An assessment of the jurisdiction's fair housing enforcement and fair housing outreach capacity.
- d) Requires HCD to develop a standardized format for describing strategies and actions to be taken pursuant to III) of ii) of c) and requires local governments to use this format for the 7<sup>th</sup> cycle and every subsequent revision of the housing element. Requires the standardized format to address all of the assessment requirements in a) i) above and, at a minimum include all of the following:
  - i) Timelines for implementation.
  - ii) Responsible party or parties.
  - iii) Resources committed from the local budget to affirmatively further fair housing.

- iv) Action areas.
  - v) Which fair housing priority the program is intended to address, the intended impacts, and how the strategies and actions will result in those impacts.
- e) Defines the following terms:
- i) “Meaningful consultation” means taking proactive steps to outreach to and engage with members of protected classes, especially those harmed by the impact of historical discrimination in the jurisdiction and surrounding region, and organizations representing their interests, to solicit their participation and input throughout the development of the assessment described in a).
  - ii) “Members of protected classes” means persons with characteristics protected by the California Fair Employment and Housing Act and other state and federal fair housing and planning law, as specified.
- 5) Requires a jurisdiction to provide proof of a recorded deed restriction requiring the continued affordability of the unit for at least 55 years for rental housing and 30 years for ownership housing for lower income households in order for those accessory dwelling units to count toward determining the number of sites for accessory dwelling units a jurisdiction can include in the lower income category.
  - 6) Requires a city’s or county’s inventory of land suitable for residential development to be used to identify sites that are distributed throughout the community in a manner that affirmatively furthers fair housing.
  - 7) Requires a city or county to ensure that the sites are distributed throughout the jurisdiction in a manner that affirmatively furthers fair housing by reducing residential segregation. This determination shall be based on whether the sites identified to accommodate the lower income share of the regional housing need and the sites identified to accommodate the total regional housing need, taking into account the number of units specified to be accommodated on each site, as specified, are located in relatively higher income areas of the jurisdiction in a higher proportion than the proportion of land located in relatively higher income areas in the jurisdiction.
  - 8) Requires HCD to develop and publish, no later than April 1, 2027, an online tool that shall serve as the method for determining whether each city’s or county’s identification of sites is adequate to accommodate its share of the regional housing need at all income levels that meets the requirement in 7). Allows HCD to grant an adjustment to 7) if underlying data for the jurisdiction renders the tool unreliable.
  - 9) Finds and declares that the bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.
  - 10) Provides that no reimbursement is necessary by the bill pursuant to Section 6 of Article XIII B of the California Constitution 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 this bill, as specified.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill requires local agencies to identify actions in their program to implement the policies and achieve the goals of the housing element that ensures that the distribution of sites across the jurisdiction affirmatively furthers fair housing. The bill additionally requires the local government to rezone the sites within specified time periods and identify sites that can be developed for housing within the planning period, if the inventory of sites does not affirmatively further fair housing.

The bill requires each city or county, at least one year prior to the adoption deadline for the next revision of the housing element, to complete and make publicly available an assessment that includes, among other things, an analysis of available federal, state, and local data and knowledge to identify and examine certain patterns, trends, areas, disparities, and needs of the community, as specified. The city and county is required to solicit public comments on the assessment. The bill requires the city or county to include, among other things, in its first draft revision of the housing element, the assessment, including any revisions made in response to the public comments, and specified strategies and actions to implement the jurisdiction's fair housing priorities and goals.

This bill requires HCD to develop a standardized format for cities and counties to use to describe strategies and actions to be taken that would affirmatively further fair housing. The bill also requires HCD to develop a new online tool by April 1, 2027 that will serve as the method for determining whether a city or county's identification of sites accommodate its share of the regional housing need at all income levels.

This bill is sponsored by California Rural Legal Assistance Foundation, Housing California, Public Advocates, and Strategic for a Just Economy.

- 2) **Author's Statement.** According to the author, "The obligation to affirmatively further fair housing (AFFH) is California's landmark law to expand fair housing choice for members of protected classes. AFFH requires all public agencies to take actions that reverse patterns of segregation, increase access to opportunity, and reduce housing disparities. AFFH requirements have been largely implemented through the housing element process, in which local jurisdictions must do a thorough analysis of fair housing issues, identify policy goals and commit to actions to achieve those goals, and identify potential housing sites to meet their Regional Housing Needs Allocation (RHNA) in a way that is responsive to local analysis.

"This bill seeks to strengthen AFFH requirements in the housing element process based on lessons learned from the sixth housing element cycle, which was the first time jurisdictions implemented these provisions. Many jurisdictions concentrated the sites they identified for affordable housing in lower-income neighborhoods - thereby perpetuating patterns of segregation - so this bill requires that jurisdictions distribute a meaningful share of their RHNA in higher-income neighborhoods. Additionally, analysis of fair housing issues and identification of policies to address them was not comprehensive or consistent across jurisdictions in the sixth cycle, particularly as it related to disinvestment and displacement, so this bill provides jurisdictions with a clear set of fair housing issues that they must analyze

and set goals to address. Finally, some jurisdictions relied excessively on accessory dwelling units (ADUs) as an AFFH strategy in higher-income, exclusionary neighborhoods, so this bill ensures that jurisdictions can only count ADUs toward their lower-income RHNA goals if they can demonstrate past evidence of producing deed-restricted, affordable ADUs.”

- 3) **General Plan.** A general plan serves as a local government’s blueprint for long-term growth and development, outlining policies and goals to shape the community’s future. Required by state law, every city and county in California must adopt a general plan that addresses key planning topics, known as elements. At a minimum, these include land use, circulation, housing, conservation, open space, noise, and safety. The general plan provides a foundation for zoning regulations, infrastructure investments, and public services, ensuring that development aligns with both local priorities and state requirements.

According to state law, “The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals”. As communities evolve, general plans are periodically updated to reflect changing demographics, economic conditions, and environmental factors, making them a critical tool for sustainable and equitable development.

While state law mandates that general plans cover specific topics, cities and counties have broad discretion in their structure, content, and level of detail. General plans range from 200 to over 2,000 pages and vary significantly based on local conditions and priorities. This flexibility reflects the Legislature’s recognition that “the diversity of the state’s communities and their residents requires planning agencies and legislative bodies to implement general plan law in ways that accommodate local conditions and circumstances, while meeting its minimum requirements”.

- 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 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 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) **Federal AFFH Rule.** Since its enactment in 1968, the federal Fair Housing Act has directed U.S. Department of Housing and Urban Development (HUD), other federal agencies, and program participants to affirmatively further the Act's goals of promoting fair housing and equal opportunity. In 2015, the Obama Administration issued the AFFH Rule to clarify what it means to "affirmatively further fair housing." The Rule incorporated an "Assessment of Fair Housing" process into broader existing planning processes to help HUD grantees identify issues such as fair housing issues pertaining to patterns of integration and segregation; racially and ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs. HUD grantees were required to submit their Assessments to HUD or potentially lose HUD funding.

On January 5, 2018, under President Trump, HUD largely suspended the obligation to submit an Assessment, effectively postponing implementation of the AFFH Rule until 2025. In July 2020, the 2015 AFFH Rule was repealed, with Secretary Carson noting that "Washington has no business dictating what is best to meet your local community's unique needs."

On January 26, 2021, President Biden issued a memorandum directing HUD to examine the effect of the previous Administration's actions against the AFFH Rule and the effect that it has had on HUD's statutory duty to both ensure compliance with the Fair Housing Act and to affirmatively further fair housing. The memo also ordered HUD to take the necessary steps to implement the Fair Housing Act's AFFH requirements and to prevent practices that have a disparate impact. On June 10, 2021, HUD published an interim final rule, which will go into effect on July 31, to restore implementation of the AFFH Rule.

- 6) **AFFH in California.** California's Fair Employment and Housing Act (FEHA) prohibits employment and housing discrimination based on protected classes. FEHA further provides that it is a civil right to be able to pursue and maintain housing or employment without facing discrimination. If a dispute is not resolved, the Department of Civil Rights may take legal action if evidence supports a finding of discrimination. In housing discrimination cases, an individual also has the right to file a lawsuit on their own behalf. While FEHA does not explicitly include an AFFH obligation, it does prohibit discrimination through public or private land use practices, decisions, and authorizations due to membership in a protected class. Discrimination includes restrictive covenants, zoning laws, details of use permits, and other actions authorized under the Planning and Zoning Law that make housing opportunities

unavailable.

After the 2015 federal AFFH Rule was enacted, concerns arose about whether it would be preserved going forward. To address these concerns, the Legislature passed and the Governor signed AB 686 (Santiago), Chapter 958, Statutes of 2018, which established an AFFH framework at the state level. AB 686 was subsequently amended in 2021 to clarify and strengthen its provisions through the passing of AB 1304 (Santiago), Chapter 357, Statutes of 2021. This framework remained in place when the Trump Administration repealed the AFFH Rule in 2020.

- 7) **California AFFH Guidelines.** In April 2021, HCD published AFFH guidance to help public agencies and local governments meet AB 686 requirements. The guidance clarifies, and provides examples to illustrate, components of the housing element assessment of fair housing, including a summary of fair housing enforcement and outreach capacity; integration and segregation patterns and trends related to people with protected characteristics and lower incomes; racially and ethnically concentrated areas of poverty; disparities in opportunity; and disproportionate housing needs, including displacement.
- 8) **Policy Consideration.** This committee is hearing two other bills that propose to change timelines in Housing Element Law. If any or all bills relating to or components of the Housing Element were to pass, it would be prudent to ensure that all bills operate on the same timelines to ensure successful implementation of the proposed policies. The author may wish to consider aligning with timelines with other Housing Element bills as the bills move forward.
- 9) **Related Legislation.** AB 650 (Papan) extends a number of timelines in the process of determining regional housing needs and RHNA and housing element revisions, and requires the HCD to provide specific analysis or text to local governments to remedy deficiencies in their draft housing element revisions. AB 650 is pending in this Committee.

AB 1275 (Elhawary) requires HCD to determine each region with a COG's existing and projected housing need three years prior to each region's scheduled housing element revision, rather than two years in existing law, and makes changes to how the transportation and job projections in a region's sustainable communities strategy must be incorporated into each COG's RHNA methodology and final RHNA plan. AB 1275 is pending in this Committee.

- 10) **Arguments in Support.** The California Legal Assistant Foundation, Housing California, Public Advocates, and Strategic Actions for a Just Economy, co-sponsors of the bill, write in support, "AB 906 will improve, strengthen, and clarify housing element requirements to better ensure that jurisdictions are developing housing plans that will increase fair housing choice and opportunity for members of protected classes. The bill will:
  - a) Clarify that to meet the AFFH obligation, the housing element adequate sites inventory must distribute a meaningful share of multifamily sites across the relatively higher-income parts of the jurisdiction, and require HCD to create a metric to assess whether this requirement is met.



- b) Clarify that a rezoning program is required if the jurisdiction's sites are not distributed in a way that affirmatively furthers fair housing, even if the jurisdiction identifies enough total sites to accommodate its RHNA share at all income levels.
- c) Require jurisdictions to complete the fair housing analysis, with community input, early in the process so that it meaningfully serves as the basis for developing goals, strategies, actions, and the adequate sites inventory.
- d) Require jurisdictions to analyze a minimum list of common fair housing issues, including disinvestment, access to a healthy environment, and renter issues.
- e) Address overreliance on ADUs as a strategy to AFFH or meet lower-income RHNA goals.

“Improvements to AFFH requirements in housing elements are timely because the seventh housing element cycle already has begun in some rural areas and adoption deadlines for the first seventh cycle housing elements in more populous areas start in 2028, with development of those elements likely to begin in 2026. Passing legislation in 2025 would allow time for HCD to update its AFFH guidance and provide clarity to jurisdictions about AFFH requirements before they begin the housing element update process. Further, just as when AB 686 was introduced, fair housing laws generally and AFFH specifically are under attack at the federal level. Now is the time for California to lead the way.”

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

12) **Double-Referral.** This bill is double-referred to the Assembly Committee on Housing and Community Development, where it is scheduled to be heard on April 30, 2025.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Rural Legal Assistance Foundation (Co-Sponsor)  
 Housing California (Co-Sponsor)  
 Public Advocates (Co-Sponsor)  
 Strategic Actions for a Just Economy (Co-Sponsor)  
 Ace Action  
 Alliance for Community Transit-Los Angeles (ACT-LA)  
 Association of Regional Center Agencies  
 California Housing Partnership  
 Communities for a Better Environment  
 Courage California  
 East Bay Housing Organizations  
 East Bay Yimby  
 East Yard Communities for Environmental Justice  
 Grow the Richmond  
 Inner City Law Center  
 Leadership Council for Justice and Accountability  
 Leadingage California  
 Legal Aid of Sonoma County  
 Long Beach Forward

Los Angeles Alliance for a New Economy (LAANE)  
Mountain View Yimby  
Napa-Solano for Everyone  
National Housing Law Project  
Northern Neighbors  
Peninsula for Everyone  
Policylink  
Public Counsel  
Rise Economy  
Santa Cruz Yimby  
Santa Rosa Yimby  
SF Yimby  
South Bay Yimby  
South Pasadena Residents for Responsible Growth  
Ventura County Yimby  
Yimby Action  
Yimby LA  
Yimby Slo

**Opposition**

None of file

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