

Date of Hearing: January 12, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1445 (Levine) – As Amended January 3, 2022

SUBJECT: Planning and zoning: regional housing need allocation: climate change impacts.

SUMMARY: Adds the impacts of climate change to the list of factors used to develop the methodology for regional housing needs. Specifically, **this bill:**

- 1) Requires, beginning in 2025, that the methodology used by a council of governments (COG), their delegate subregions, or the Department of Housing and Community Development (HCD) for allocating regional housing needs to factor in the impacts caused by climate change, including emergency evacuation route capacity, wildfire risk, and sea level rise.
- 2) 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 this act, as specified.

EXISTING LAW:

- 3) Establishes Planning and Zoning Law, which requires every city and county to adopt a general plan that sets out planned uses for all of the area covered by the plan, and requires the general plan to include seven mandatory elements, including a housing element. Additionally requires major land use decisions by cities and counties, such as development permitting and subdivisions of land, to be consistent with their adopted general plans.
- 4) Establishes Housing Element Law, which:
 - a) Provides that each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (a) the Department of Finance and the HCD develop regional housing needs estimates; (b) 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.
 - b) Requires that cities and counties produce, and HCD certify, a housing element to help fulfill the state's housing goals. In metropolitan areas, these housing elements are required every eight years. Each housing element must contain:
 - i) An assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs;
 - ii) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing;
 - iii) An implementation plan that identifies any particular programs or strategies being undertaken to meet their goals and objectives, including their RHNA target;

- iv) An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period; and,
 - v) Where the inventory of sites does not identify adequate sites to accommodate the need for groups of all household income levels, plans for rezoning of those sites by a specified deadline.
- c) Establishes the procedure for distribution of projected regional housing need to cities and counties for areas outside of COGs. The distribution of regional housing need must consider:
- i) Market demand for housing.
 - ii) The distribution of household growth within the county assumed in the regional transportation plan (RTP) where applicable.
 - iii) Employment opportunities and commuting patterns.
 - iv) The availability of suitable sites and public facilities.
 - v) The needs of individuals and families experiencing homelessness.
 - vi) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.
 - vii) Other considerations as may be requested by the affected cities or counties and agreed to by the department.

Consideration of suitable housing sites or land suitable for urban development is not limited to existing zoning ordinances and land use restrictions of a locality, but must include consideration of the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding

- 5) SB 375 (Steinberg), Chapter 728, Statutes of 2008, requires the California Air Resources Board (CARB), to set regional targets for greenhouse gas (GHG) reductions and requires each metropolitan planning organization (MPO) to prepare a sustainable communities strategy (SCS) as part of its RTP. The SCS demonstrates how the region will meet its GHG targets through land use, housing, and transportation strategies

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

COMMENTS:

- 1) **Author's Statement.** According to the author, "Climate disasters and the impacts of climate change on our state have made more and more places risky to live. In 2020, California experienced another devastating and record-breaking wildfire season; 4,257,863 acres

burned, 33 lives were lost and 10, 488 structures damaged or destroyed. The August Complex fire burned more than 1 million acres, crossing 7 counties – spanning an area larger than the state of Rhode Island – becoming California’s largest recorded wildfire. In addition to fires, severe drought and periods of record-breaking heat, science has shown that climate change will result in a gradual and permanent rise in global sea levels. The U.S. Geological Survey estimates that by 2100, about 6 feet of sea level rise and recurring annual storms could impact over 480,000 California residents. Unfortunately, as our state faces a climate crisis, it also faces a housing crisis and local governments must factor the impacts of climate disasters into their housing planning.

“AB 1445 requires a council of governments, a delegate subregion or the Department of Housing and Community Development to, starting in January 1, 2025, additionally consider among other required factors, emergency evacuation route capacity, wildfire risk, sea level rise and other impacts of climate change. This bill will ensure local governments are taking into account the impending impacts of climate change and disasters on risk to residents when planning for housing in their communities.”

- 2) **Climate Impacts in California.** Despite significant and ongoing state efforts to reduce the generation of GHG emissions, California’s climate is generally expected to become hotter, drier, and more variable over the coming decades, increasing the risk of catastrophic wildfires, droughts, floods, extreme weather, biodiversity loss, and sea level rise. These changes will impact California’s residents, water supply, ecosystems, and economy. California’s Fourth Climate Assessment estimates the economic cost to California for these losses by 2050 will be over \$100 billion annually. The scale and type of impacts will vary across regions. People who are already vulnerable, including lower-income and other marginalized communities, have lower capacity to prepare for and cope with extreme weather and climate-related events and are expected to experience greater impacts.
- 3) **RHNA.** The state plans for housing through the RHNA and housing element process, which occurs on an eight-year cycle (except for the state’s most rural areas, where it occurs every five years). Currently, the state is in a transitional period where jurisdictions are either wrapping up the 5th eight-year cycle or beginning the 6th. In between cycles the Legislature frequently adjusts the statutory requirements to the RHNA process, ultimately influencing the number of units allocated as well as where those units are allocated across the state.
 - a) **SCS and RHNA.** SB 375 (Steinberg) adopted in 2008 represents the land use component of the state’s wider strategy to address climate change. The law requires California’s MPOs (which are often also COGs) to create a SCS as a part of their federally mandated RTP. The SCS demonstrates how the region will meet its GHG emissions reduction targets through land use, housing, and transportation strategies. SB 375 also aligned the RHNA cycle with the RTP and SCS planning cycle.

Under Housing Element Law, HCD works with the Department of Finance to develop each region’s projected population growth. Based on these projections, HCD allocates a RHNA share to each MPO/COG. The MPO or COG in turn develops a methodology for distributing its RHNA share among the jurisdictions in its region. The COG’s methodology for distributing housing is required to further state goals 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 in the region's SCS.

A recent working paper by the UC Berkeley Turner Center for Housing Innovation found that, after SB 375, RHNA targeted more housing development with high job proximity in most MPOs. In addition to aligning planning processes, SB 375 also provided limited CEQA exemptions designed to further infill development that is consistent with a regions SCS. More recent revisions to the RHNA process will substantially increase the housing units that COGs must distribute to their jurisdictions in a manner that furthers the regions SCS, which should lead to more infill development in jobs rich areas.

- b) **The 6th RHNA Cycle.** In the period between the 5th and 6th revisions of the housing element, legislative changes were made to the RHNA process and methodology to ensure that housing needs reflected not just current demand, but unmet demand as well. As such, throughout the state, many cities and counties will be required to plan for substantially more growth than before. For example, in the 5th RHNA cycle the Southern California Association of Governments (SCAG) received a RHNA of 409,000 – 438,000. By contrast, in the 6th RHNA Cycle, SCAG received a RHNA of 1,341,827. Upon completion of this cycle of housing element revisions, the state is expected to have sufficiently zoned land to accommodate its current housing needs.
- 4) **Bill Summary.** This bill requires that the impacts of climate change are included as a factor in developing the methodology for allocating regional housing need within a region. Regions will specifically need to consider emergency evacuation route capacity, wildfire risk, and sea level rise, but could also consider any other climate change-related factor.

The requirements in this bill will not become operative until 2025. As such, it will first apply to the 7th eight-year cycle of RHNA and housing elements.

- 5) **Arguments in Support.** The League of Women Voters of California writes in support, “The League supports actions and policies to adapt to climate change. Sea level rise and wildfire are two key threats to land structures of any kind. We must stop developing housing or other structures in areas that will be literally under water from sea level rise in the decades to come. Similarly, consideration of fire threat, and the need for evacuation routes, particularly in rural areas or the Wildfire Urban Interface, is important in housing decisions. Not doing so can result in tragic loss of life and property.”
- 6) **Arguments in Opposition.** None on file.
- 7) **Double-Referral.** This bill is double-referred to the Housing and Community Development Committee, where it is set for hearing on January 12, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

League of Women Voters of California
Sierra Club California

Opposition

None on file.

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