

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 2094 (Robert Rivas) – As Introduced February 14, 2022

SUBJECT: General plan: annual report: extremely low-income housing.

SUMMARY: Requires cities and counties to include in their annual progress report (APR) progress towards meeting their regional housing needs for extremely low income (ELI) households.

EXISTING LAW:

- 1) Defines “ELI” to mean persons and families whose incomes do not exceed the qualifying limits for extremely low-income families as established by the U.S. Department of Housing and Urban Development. Generally, this level is approximately 30 percent of area median income (AMI), adjusted for family size and revised annually.
- 2) 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.
- 3) Requires that each community’s fair share of housing be determined through the regional housing needs allocation (RHNA) process, which involves three main stages: (a) the Department of Finance and Department of Housing and Community Development (HCD) develop regional housing needs estimates at four income levels: very low-income, low-income, moderate-income, and above moderate-income; (b) councils of government (COGs) use these estimates to allocate housing within each region (HCD is to make the determinations where a COG does not exist); and (c) cities and counties incorporate their allocations into their housing elements.
- 4) Requires that cities and counties provide, in their housing elements, a quantification of the locality’s existing and projected housing needs for all income levels, including ELI households. Provides that cities and counties must calculate their projected needs for ELI households either by determining their existing share of ELI households using census data, or by presuming that 50 percent of their RHNA for very low-income households are ELI.
- 5) Establishes HCD oversight of the housing element process, including the following:
 - a) Local governments must submit a draft of their housing element to HCD for review.
 - b) HCD must review the draft housing element, and determine whether it substantially complies with housing element law, in addition to making other findings.
 - c) Local governments must incorporate HCD feedback into their housing element.
 - d) HCD must review any action or failure to act by local governments that it deems to be inconsistent with an adopted housing element. HCD must notify any local government,

and at its discretion the office of the Attorney General, if it finds that the jurisdiction has violated state law.

- 6) Requires each city and county to submit an APR to the Governor's Office of Planning and Research (OPR) and HCD by April 1 of each year. The report is to evaluate the general plan's implementation, including how local housing needs have been met (construction of new units, changes to zoning laws, facilitating regulatory hurdles to housing development, etc.).

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

COMMENTS:

- 1) **State Housing Crisis.** California faces a severe housing shortage. In its most recent statewide housing assessment, HCD estimated that California needs to build an additional 100,000 units per year over recent averages of 80,000 units per year to meet the projected need for housing in the state. A variety of causes contributed to the lack of housing production. Recent reports by the Legislative Analyst's Office and others point to local approval processes as a major factor. They argue that local agencies control most of the decisions about where, when, and how to build new housing, and those agencies are quick to respond to vocal community members that may not want new neighbors. The building industry also points to the review required by the California Environmental Quality Act as an impediment, and housing advocates note a lack of a dedicated source of funds for affordable housing.
- 2) **APR Reporting.** Existing law requires each city and county's legislative body to adopt a "general plan" for land use within its jurisdiction. Each general plan must include a "housing element" that details existing housing conditions within the jurisdiction, the need for new housing, and the strategy that the jurisdiction will use to address that need. The housing element includes an estimate of need at all income levels, including ELI.

Each year, the local government's planning agency must submit an APR to HCD and OPR that documents the city or county's progress towards meeting its general plan goals and RHNA. The APR must include information about all proposed and approved development projects, a list of rezoned sites to accommodate housing for each income level, and information on density bonus applications and approvals, among other provisions.

Local governments must include information on their progress towards development of housing affordable at four income categories: very low income (0-50 percent AMI), low income (50-80 percent AMI), moderate income (80-120 percent AMI), and above moderate income (over 120 percent AMI). In addition to these categories, this bill would require that the APR provide information on progress towards development of housing affordable to ELI households.

- 3) **Bill Summary and Author's Statement.** This bill requires cities to include progress towards meeting their share of regional housing needs for ELI households in their housing element APR. All Home and Housing California are the sponsors of this bill.

According to the author, “The ELI housing category has been severely under-produced and has the largest housing deficit compared to any other income category. In order to ensure there is accountability in planning for housing that is accessible to people with extremely low incomes, there must be publicly accessible data regarding progress for the ELI income category.

“AB 2094 requires local governments to include their progress towards meeting their ELI housing needs in their annual progress report. Under this bill, local governments would simply make public information they already have to prepare.

“The City of San Jose and County of Santa Clara are among those jurisdictions that already voluntarily track their data on progress toward building ELI units. Additionally, they have allocated significant development resources for ELI housing production because they recognize that a severe lack of housing affordable to extremely low-income households is a main driver of homelessness.

“A recent report by the Turner Center for Housing Innovation and All Home about housing insecurity for people with extremely low incomes showed the severe shortage of ELI housing and this population’s particular vulnerability to homelessness. By improving data collection on ELI housing production, the state will be better able to identify future policy and funding needs.

“According to the California Housing Partnership’s California Affordable Housing Needs Report 2021, ‘78% of extremely low-income renter household are paying more than half of their income on housing costs.’ To make matters worse, longstanding, and systemic racism contributes to significant disparities in who is represented among the ELI population. A recent CalMatters article highlighted that ‘on average, Black Californians see a larger chunk of their paychecks going to housing costs than any of the state’s other major demographic groups. Nearly 50% of Black Californians lived in households that were cost burdened in 2018.’

“By increasing transparency on the number of units that are produced in this income category, it will make it easier to focus policies to specifically address known disparities. As the state continues to focus on addressing our housing and investing state dollars, we need to have a better understanding how these efforts help our extremely low-income households. Having this additional data point is the first step.”

- 4) **Previous Legislation.** SB 477 (Wiener) of 2021 would have made several changes to the APR data on housing development and land use that cities and counties are required to submit to HCD related to their general plan and housing approvals. It was vetoed by Governor Newsom. In the veto message, the Governor states:

“This bill would require a city or county planning agency to include specified information for proposed housing development projects within its jurisdiction in its annual report.

“I strongly agree that in order to solve California's housing crisis, we must require more accountability at every level of government. That's why I signed AB 1483 (Chapter 662, Statutes of 2019) to require the Department of Housing and Community Development to

develop a data strategy as part of the statewide housing plan - implementation is currently underway and the Department will produce its recommendations in January, on-time.

“As HCD continues its work to implement AB 1483, I am directing the Department to consider including data on the effectiveness of various housing laws, as this bill contemplates. Building this analysis into the existing data process is the more appropriate approach to this issue, as opposed to creating a new requirement while the Department is mid-stream on implementing the thoughtful provisions of AB 1483.

“As the Department completes this important work, further statutory changes may be necessary to implement any recommendations. I look forward to working with the Legislature next year to enact potential improvements identified by the Department.”

AB 1043 (Bryan), Chapter 354, Statutes of 2021, defined “acutely low income households” as persons and families whose incomes do not exceed 15 percent of area median income, adjusted for family size, among other provisions.

- 5) **Arguments in Support.** According to Housing California, “AB 2094 will increase transparency by requiring local jurisdictions to clarify their progress toward building new units for extremely low-income (ELI) households as part of existing reporting requirements. Current law states that cities must allocate a certain number of sites for ELI units, which are available to households with incomes of 15-30% of the area average median income (AMI). Right now, cities are required to report their progress on building various levels of low-income housing but are not required to specifically report on the number ELI units.

“State data shows the gap between housing needs and housing units produced is greatest for very low-income renter households making 30-50% AMI. Data from the California Housing Partnership also shows that 78% of ELI renter households are paying more than half of their income on housing costs compared to 6% of moderate-income renter households. Without critical data on housing production for ELI households, we lose critical insights about a localities’ progress towards meeting the housing needs of the most vulnerable Californians.

“To be clear, this legislation does not change the housing element nor the RHNA allocation for any jurisdiction. AB 2094 will increase transparency by requiring that the form to report annual progress on housing production to HCD add an additional column to specifically report progress on ELI unit production. AB 2094 provides additional data transparency to ensure that we track and meet our existing commitments to create housing that is affordable at all income levels, understand where gaps exist, and work together to use resources effectively for those who are the most vulnerable to homelessness.”

- 6) **Arguments in Opposition.** According to Mission Street Neighbors, “AB 2094 does nothing. It simply adds a column to an annual report cities and counties already make to HCD. The column would record data cities and counties already collect related to meeting housing needs of households in the 0-30% of average median income (AMI).”

“Since this does not rise to the level of new legislation, one feels it is probably a space holder bill that will be modified later to include more negative details once it is further along in the process. We don’t need or support this bill, and furthermore, making it a legislative issue

clogs the policy pipeline with an action that could be managed with a phone call or email.”

- 7) **Double-Referral.** This bill is double-referred to the Housing and Community Development Committee, where it passed on a 8-0 vote on March 23, 2022.

REGISTERED SUPPORT / OPPOSITION:

Support

All Home [SPONSOR]
Housing California [SPONSOR]
Aids Healthcare Foundation
Bay Area Community Services
Bay Area Council
California Apartment Association
California Building Industry Association
California Housing Consortium
California Housing Partnership Corporation
California Rural Legal Assistance Foundation
California YIMBY
City of Oakland
Destination: Home
Diane Burgis, Board Supervisor, Contra Costa County
GLIDE
Housing Action Coalition
Jesse Arreguin, Mayor, City of Berkeley
Keith Carson, Board President, Alameda County
MidPen Housing Corporation
Orange County United Way
Sam Liccardo, Mayor, City of San Jose
San Francisco Bay Area Planning and Urban Research Association
San Francisco Foundation
San Mateo County
Silicon Valley Community Foundation
SV@Home Action Fund
Terner Center for Housing Innovation, UC Berkeley
The Two Hundred
United Way of Great Los Angeles
Western Center on Law and Poverty
Zach Hilton, Councilmember, City of Gilroy

Opposition

Catalysts for Local Control
Mission Street Neighbors
One Individual

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